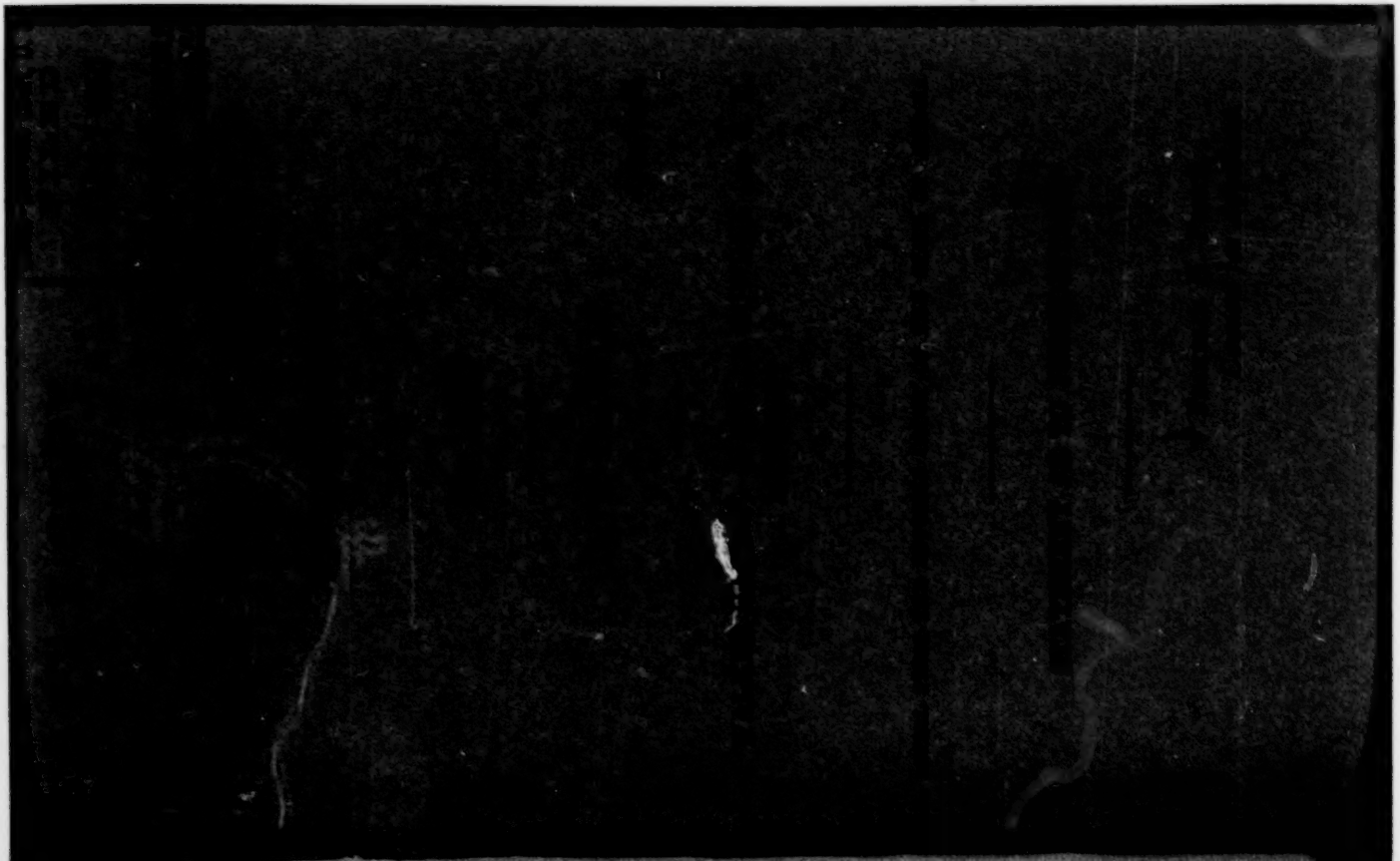


INDEX

Subject Index

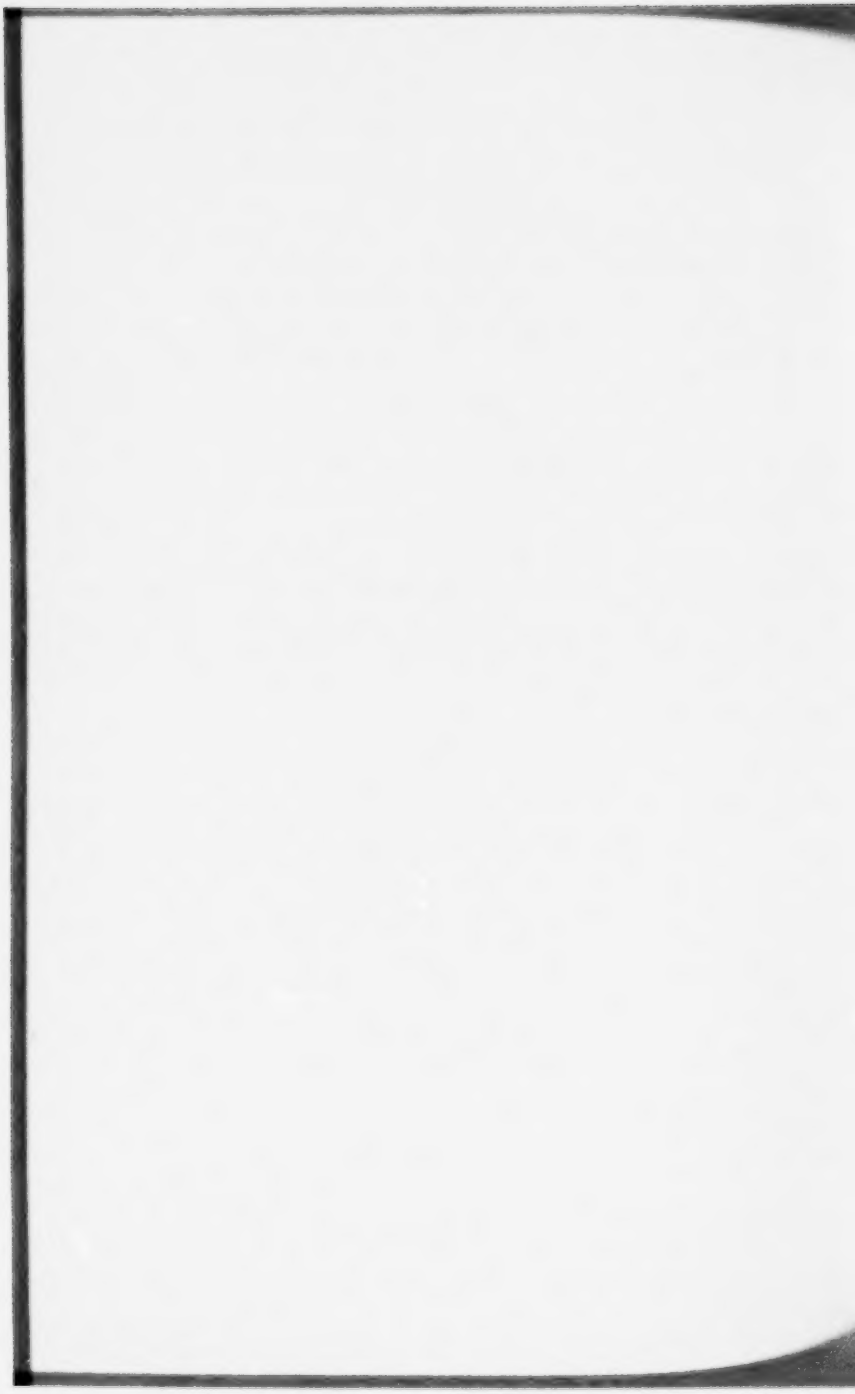
	Page
Statement as to jurisdiction	1
Statutory provision sustaining jurisdiction	1
State statute the validity of which is involved	2
Nature of the case and rulings below	3
Exhibit "A"—Opinion of the Supreme Court of Georgia	7
Exhibit "B"—State statute involved	25

Table of Cases Cited

Davis v. *Schnell*, 81 Fed. Supp. 872	4
Joyner v. *Browning*, 30 Fed. Supp. 512	4
Lane v. *Wilson*, 307 U. S. 268	4
Nixon v. *Condon*, 286 U. S. 73, 52 S. Ct. 484, 76 L. ed. 984	4
Nixon v. *Herndon*, 273 U. S. 536, 47 S. Ct. 446, 71 L. ed. 759	4
Quinn v. *U. S.*, 238 U. S. 347, 35 S. Ct. 926, 59 L. ed. 1340	4
Smith v. *Allright*, 321 U. S. 649, 88 L. ed. 987	4
Smith v. *O'Grady*, 312 U. S. 349	3
Stewart v. *Cartwright*, 156 Ga. 197	4
United States v. *Classic*, 313 U. S. 299	4

Statutes Cited

American Jurisprudence, Volume 11, Section 145, "Constitutional Law", page 825	4
American Jurisprudence, Volume 18, Section 6, "Elections", p. 182	4
Constitution of the United States:	
14th Amendment	2, 3
15th Amendment	2, 3
Corpus Juris Secundum, Volume 29, Section 2, page 24	4
United States Code, Title 28, Section 1257(2)	1
Voters' Registration Act of 1949, p. 1204	2



POOR COPY

BLEED THROUGH

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1949

No. 687

DAVID FRANKLIN,

Appellant,

vs.

J. WALKER HARPER, C. NOLAN BOWDEN AND G. E. MURPHEY,

Appellees

APPEAL FROM THE SUPREME COURT OF GEORGIA

STATEMENT AS TO JURISDICTION

Now comes Appellant in the above stated case and presents this his statement, particularly disclosing the basis upon which it is contended that this Court has jurisdiction.

The Statutory provision to sustain this appeal is paragraph (2) of Title 28, Section 1257 of the United States Code, which provides in part as follows:

> "Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows: . . .
>
> "(2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its

being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity."

The Act of the State of Georgia which is attacked as being unconstitutional, is attached hereto as an appendage to this statement, marked Exhibit "B", and by reference thereto made a part hereof.

The decision appealed from is from the "highest court" of the State of Georgia "in which a decision could be had".

The question presented is one that has agitated the minds of all freedom loving people, to wit, the integrity of the right to the exercise of political franchise.

On February 20, 1949 the Governor of the State of Georgia approved an act which is known as the Voters' Registration Act, Acts 1949, page 1204, and which is the act attached hereto. The Legislature of Georgia by this act disfranchised 1,200,000 voters in Georgia and set up an entirely new registration system. The question here is whether or not that act is in violation of the Fourteenth and Fifteenth Amendments of the Constitution of the United States.

The Supreme Court of Georgia held that the same was not in violation of such provisions of the Constitution.

Appellees brought a mandamus to compel Appellant, who is Chairman of the Board of Commissioners of Roads and Revenues of Richmond County, to approve for payment a voucher for the payment of certain salaries claimed to be due them as members of a Board of Registrars appointed in pursance of the act in question.

To the petition for mandamus Appellant demurred, attacking the constitutionality of the act upon the ground that it was in violation of the Fourteenth and Fifteenth Amendments of the Constitution of the United States. The act is too long to summarize, but we insist that the foregoing

POOR COPY

BLEED THROUGH

clearly points out the constitutional questions for decision. First did it violate the Fourteenth Amendment of the Constitution of the United States, which provides: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." And second did it violate the provisions of the Fifteenth Amendment of the Constitution of the United States, which provides: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

Appellant insists that serious constitutional questions are presented for this Court's consideration.

The appeal is from a decision of the "highest court" of the State of Georgia "in which a decision could be had."

In addition to the constitutional provisions copied above it is insisted that the following decisions sustain this appeal.

Smith v. *O'Grady*, 312 U. S. 349, where this court said, speaking of the duty of State Courts with reference to the Federal constitutional questions: "That constitution is the supreme law of the land. 'And upon the state courts, equally with the courts of the union, rests the obligation to guard and enforce every right secured by that constition'."

And by its ruling the Supreme Court of Georgia fell into error. The question of whether the act attacked is in violation of the Constitution of the United States is of such

nature as to warrant "an independent examination" by this court, in order to determine whether Appellant has suffered "a deprivation of rights" guaranteed him by the Federal constitution.

Quinn v. *U. S.*, 238 U. S. 347, 35 S. Ct. 926, 59 L. E. 1340; *Nixon* v. *Herndon*, 273 U. S. 536, 47 S. Ct. 446, 71 L. E. 759; *Nixon* v. *Condon*, 286 U. S. 73, 52 S. Ct. 484, 76 L. E. 984; *Smith* v. *Allright*, 321 U. S. 649, 88 L. E. 987; *Lane* v. *Wilson*, 307 U. S. 268.

The right to maintain the integrity of the right to vote is "a right secured by the constitution" of the United States. *United States* v. *Classic*, 313 U. S. 299; *Davis* v. *Schnell*, 81 Fed. Supp. 872.

And see 11 Am. Jur., Constitutional Law, Section 145, page 825; 29 Corpus Juris Secundum, Section 2, page 24, under Elections; "That the right to vote, when once conferred, is a property right of which one cannot be deprived, except by due process of law." *Joyner* v. *Browning*, 30 Fed. Supp. 512; *Stewart* v. *Cartwright*, 156 Ga. 197.

The rights contended for are such as are succinctly stated in Am. Jur. Volume 18, page 182, Section 6, under "Elections." There it is said:

"Although generally the courts will not undertake to hamper the exercise of the legislature with sharp distinctions in regard to the enactment of laws intended to safeguard the ballot and to regulate the holding of elections, all such regulations of the elective franchise must be reasonable, uniform, and impartial, and must be calculated to facilitate and secure rather than to subvert and impede the exercise of that right. Such regulations should stand the test of the following constitutional fundamentals;

(1) The express and implied inhibitions of class legislation;

POOR COPY

BLEED THROUGH

(2) the recognized existence and inviolability of inherent rights;

(3) the constitutionally declared purpose of government; and

(4) the express guaranty of the right to vote. Such regulations will be declared void if they directly or indirectly deny or abridge the constitutional right of a citizen to vote, unnecessarily impede the exercise of such right, violate the constitutional guaranty of free speech, deprive a citizen of the right to trial by jury, or direct that a person charged with a violation of statute be compelled to give evidence against himself."

We insist that the Act of 1949 was never intended to facilitate the right of suffrage, but to restrict—yea to destroy—that right in 1,200,000 voters.

While the foregoing authorities are not exhaustive we insist they point up with sufficient clarity the constitutional questions presented on this appeal.

And the constitutional question presented on this appeal is substantial and the same was raised by demurrer and presented to the Supreme Court of Georgia by a Bill of Exceptions and by a decision of that Court overruled, which appears from the opinion of the Supreme Court of Georgia attached hereto as Exhibit "A". This statement is made in compliance with Rule 12 of the Supreme Court of the United States.

The Federal Constitution questions are clearly made. All State Constitutional questions are out of the case. If the act violates the Federal Constitution in any manner, it is void as a whole.

It would seem that the Supreme Court was of the opinion, unless one "pointed out with sufficient particularity" state

constitutional questions, he could not sufficiently urge his Federal Constitutional questions. In this we insist that Court was in error.

Respectfully submitted,

FRANKLIN H. PIERCE,
Attorney for Appellant.

POOR COPY

BLEED THROUGH

EXHIBIT "A"

SUPREME COURT OF GEORGIA

Case No. 16758

FRANKLIN v. HARPER, ET AL.

Decided September 16, 1949

By the Court:

1. In a mandamus proceeding against the Chairman of the Board of Commissioners of Roads and Revenues charged with the legal duty of executing warrants to pay out public funds only for lawful purposes, to require him to sign warrants for payment of salaries to members of the County Board of Registrars, which Board was created and compensation for services of its members fixed as provided for under a State statute, such Chairman may by demurrer to the petition challenge the constitutionality of the act creating such Board of Registrars.

2. Where a statute is asserted to be invalid as a whole as being in violation of specified portions of the State and Federal constitutions, this court will only consider the general question as to whether the statute is invalid as a whole, without adjudication as to the validity or invalidity of any particular sections or parts except as related to the general question.

3. Registration laws are the means and machinery by which proofs are submitted showing the existence of the citizen's qualifications as an elector; such statutes having for their purpose regulation of the exercise of the right of suffrage, but not to qualify or restrict the right to vote. Such laws must be impartial, uniform, and reasonable, giving to all a fair, equal, and reasonable opportunity to exercise the right to qualify as an elector.

4. The act approved February 25, 1949 (Ga. L. 1949, p. 1204), entitled "Voters' Registration Act," as against the attack on the act as a whole, is not violative of either

of the following provisions of the constitution of Georgia of 1945; art. 1, sec. 1, par. 3 (Ga. Code. Ann., Sec. 2-103); art. 1, sec. 1, par. 1 (Ga. Code Ann., sec. 2-101); art. 1, sec. 1, par. 2 (Ga. Code Ann., sec. 2-102).

5. Said Voters' Registration Act, as against the attack on the act as a whole, does not violate the Fourteenth Amendment to the constitution of the United States.

6. Said Voters' Registration Act, as against the attack made on the statute as a whole, does not violate the Fifteenth Amendment to the constitution of the United States.

7. Under constitutional and statutory provisions, the Board of County Commissioners of Roads and Revenues of Richmond County is authorized to issue warrants to be paid out of general county funds, in payment of salaries to County Registrars for preparing lists of voters.

8. The assignments of error on the other grounds of general and special demurrer having been either expressly abandoned, or not argued in this court, will not be passed upon.

9. Where the trial judge correctly overruled a general demurrer to plaintiffs' application for the writ of mandamus absolute, and the facts alleged in the petition were undisputed by the defendant, there was no error in granting a mandamus absolute.

Under the provisions of an act of the General Assembly of Georgia approved February 25, 1949 (Ga. L. 1949, p. 1204), entitled "Voters' Registration Act," the judge of Richmond Superior Court appointed J. Walker Harper, C. Nolan Bowden, and G. E. Murphey as County Registrars, and fixed their compensation as follows: Chairman of the Board, $350 per month; $75 per month to each member. Said act provided that the salaries and expenses of the board be paid from the county treasury.

The plaintiffs, as County Registrars of Richmond County, filed their application for the writ of mandamus against David Franklin, Chairman of the Board of Commissioners of Roads and Revenues of said county, and alleged that they had entered upon their duties as County Registrars

POOR COPY

BLEED THROUGH

on April 1, 1949, and during the month of April exercised the powers and duties of office required of members of the Board of Registrars, attaching to the petition copy of the order of the superior court appointing them and fixing their compensation. On April 5, 1949, the defendant, was advised of their appointment and qualification. Said Board was advised by the Board of Commissioners of Roads and Revenues to proceed with the administration of the Voters' Registration Act, and at that time no question was raised as to the payment of the salaries of the members of the Board. On April 30 county warrants, in the form used by Richmond County, for the payment of salaries fixed in the order of the court, were presented to the defendant for his signature, said warrants having been signed by the Chairman of the Finance Committee of the Board of Commissioners of Roads and Revenues, but the defendant refused to sign the warrants. Thereafter the Board of Commissioners of Roads and Revenues on May 3 passed a resolution directing the defendant to sign said warrants, and authorized the payment of petitioners' salaries for the month of April, and the warrants were again presented to the defendant and he refused to sign them, on the ground that the Voters' Registration Act under which petitioners were acting was invalid. Petitioners alleged that they will suffer pecuniary loss for which they cannot be compensated in damages, because of the defendant's failure to carry out the duties of his office. They have no other remedy, legal or equitable. The prayer was that a writ of mandamus be issued, requiring the defendant to sign the warrants drawn for petitioners' salaries. To this petition the defendant filed general and special demurrers. By the general demurrers, the defendant attacked the validity of the Voters' Registration Act on the grounds that said act (a) violates art. 1, sec. 1, par. 3 of the Constitution of Georgia (Ga. Code Ann., sec. 2-103), which provides, "No person shall be deprived of life, liberty, or property, except by due process of law," in that such act is discriminatory against the right of one to exercise his franchise, and tends to take away the liberty of the voters of the State of Georgia without due process of law; (b) it violates

art. 1, sec. 1, par. 1 of the constitution of Georgia (Ga. Code Ann., sec. 2-101), which provides, "All government, of right, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole. Public officers are the trustees and servants of the people, and, at all times, amenable to them," in that this defendant is Chairman of the Board of Commissioners of Roads and Revenues of Richmond County, which controls the fiscal affairs of said county, and it is his duty to conserve the money of Richmond County under his control, and since the act relied upon impinges upon the section of the constitution above quoted, such proceeding should be dismissed; (c) it violates art. 1, sec. 1, par. 2 of the constitution of Georgia (Ga. Code Ann., sec. 2-102), which provides, "Protection to person and property is the paramount duty of government, and shall be impartial and complete," because such act sets up a system of censorship contrary to the principles of a democratic form of government, and since defendant is a public official, Chairman of the Board of Commissioners of Roads and Revenues which controls the fiscal affairs of said county, such proceeding should be dismissed; (d) said act violates the provisions of the Fourteenth Amendment to the constitution of the United States (Ga. Code Ann., sec. 1-815), which provides, "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws," because it abridges the privileges and immunities of citizens of the United States, and deprives persons of liberty without due process of law, since the right to vote is the very foundation of a democratic form of government, "and to set up a board which has power to discriminate and censor the right of citizens to vote, who are the creators of the government, and is therefore void;" and no order of a judge of the superior court

POOR COPY

BLEED THROUGH

can give validity thereto, and cannot impose upon this defendant the duty of approving vouchers for payment of so-called salaries of any such Board; (e) said act violates the Fifteenth Amendment to the constitution of the United States (Ga. Code Ann., sec. 1-820), which provides, "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude," because the act abridges the right of citizens to vote on account of race or color; it leaves to three men unlimited and arbitrary power to declare them ineligible to vote; and defendant is Chairman of the Board of Commissioners of Roads and Revenues, which has control of the fiscal affairs of Richmond County, and it is his duty to protect the interest of voters of every class and not to pay out any public money for any purpose other than expressly provided by law.

By general demurrer the defendant also contends that the plaintiffs have an ample remedy at law; in that it appears that the defendant is not liable to pay to the plaintiffs any salary, that there is not any specific law which would require this defendant to sign any warrant; and further, it does not appear from the petition that defendant has any funds in hand from which the court can compel the payment of the salaries claimed.

There were also several special demurrers, one of which was on the ground of misjoinder of parties plaintiff, which ground was expressly abandoned by the defendant.

The petition for the writ of mandamus and demurrer of the defendant thereto came on to be heard by the trial judge, who entered an order overruling all grounds of the general and special demurrers. The defendant filed no response, and it was agreed between the parties that the prayer for the writ of mandamus absolute be passed upon by the trial judge upon the facts stated in the petition. After a hearing, the court entered an order granting petitioners' prayer for a writ of mandamus, and the case is before this court on a bill of exceptions to both orders.

The parties hereafter will be referred to in the positions they occupied in the trial court.

ALMAND, *Justice* (After stating the foregoing facts):

1. The plaintiffs contend that the defendant cannot question the constitutionality of the Voters' Registration Act, in that in the enforcement of said law no interest or right of the latter is affected. Under the provisions of the act, the Board of County Registrars, charged with enforcement of the act, are to be compensated out of county funds, and the defendant, a member of the Board of Commissioners of Roads and Revenues, by virtue of his office is charged with the duty of paying out such funds only for purposes provided by law. If a Chairman of such Board issues a warrant for an unlawful purpose upon which public funds are paid, he would be personally liable. If the Voters' Registration Act is unconstitutional, though in the form and name of law, it "is in reality no law, and confers no authority upon, and affords no protection to, an officer acting thereon." Dennison Mfg. Co. v. Wright, 156 Ga. 789 (4a) (S. E.). In the case of McCants v. Layfield, 149 Ga. 231 (2) (S.E.), this court held: "Where a mandamus proceeding is instituted by one claiming the office of county treasurer, for the purpose of compelling the county tax-collector may defensively set up the unconstitutionality of the act naming the petitioner as treasurer of the county. He is entitled to an adjudication of that question, and is not required to bring quo warranto for the purpose of enquiring into the title of the person claiming the office of County treasurer." In the opinion Mr. Justice Gilbert, speaking for the majority of the court, quoted with approval from 18 R. C. L. 112, sec. 24, as follows: "The better rule, however, seems to be that though all ministerial officers may not be permitted to raise the question as to the constitutionality of a statute imposing upon them the duty sought to be enforced, yet where it is sought to compel State officers, charged with the general duty of keeping and disbursing the funds, to comply with a statute providing for a disbursement thereof, such officers may raise the question of the constitutionality of the particular statute providing for the distribution sought to be coerced." Pp. 238-39.

POOR COPY

BLEED THROUGH

We therefore hold that the defendant had such an interest as would authorize him to question the validity of the Voters' Registration Act under which the plaintiffs claim they are acting and contend that the defendant is under a duty to sign warrants for their compensation fixed by virtue of said act.

2. By general demurrers the defendant makes a general attack on the Voters' Registration Act of 1949 as a whole, and does not attack any specific portion thereof; it being charged that the act is violative of certain specified provisions of the Federal and State constitutions. We therefore turn to the act itself as a whole, to ascertain if it is subject to the attacks made.

Section 55 declares that the intent of the General Assembly is to provide by this act "for a new and exclusive method of qualifying voters, such revision being necessary in order to make the laws of this State conform to the requirements of the Constitution of Georgia adopted in the year 1945." Section 1 provides that from and after the effective date of the act no person shall be permitted to vote in any election in this State for presidential electors, members of Congress, United States Senator, Governor, Lieutenant Governor, State House officers, members of the General Assembly, county officers, justices of the peace or members of county board of education, unless such person has been registered and qualified as provided in this act. Section 3 provides that the first registration list shall be prepared in 1950, and that the process of registration shall start immediately. It is provided in Section 4 that the registration shall be permanent, but electors are required to maintain their status as qualified voters by the exercise of their franchise once every two years. Section 6 provides that the judge of the superior court of each county shall quadrennially appoint three upright and intelligent citizens of the county as a Board of Registrars from a list of six names recommended by the grand jury; the judge having the right to remove a member of the Board on recommendation of the grand jury or upon proof of failure to discharge his duties, or because of unfitness of any member of the Board. The act provides that the Registrars shall take an oath, and under Section 9 the

tax commissioner or tax collector of the county shall be a deputy to the Board of Registrars. Section 11 provides a form of registration card whereby the applicant under oath is required to state that he is a citizen of the United States; state his age; that he has resided for six months in the county; that he possesses the qualifications of an elector required by the constitution; and that he is not disfranchised by reason of any offense committed against the State. On this card the deputy or registrar certifies (1) that the applicant could or could not intelligibly read a specified paragraph of the constitution of Georgia or the United States; (2) that the applicant wrote or could not write a specified paragraph of the constitution legibly; (3) that the applicant stated that due solely to physical infirmity he could not read, and a specified paragraph of the constitution was read to him, and he explained it intelligibly, or could not explain it intelligibly; (4) that the applicant was served with notice to appear before the Board of Registrars on a stated date.

Sections 15, 16 and 17 provide how the applicant shall apply for registration and the manner of filling out the cards and entry of the answers by the deputy or registrar. If the applicant states he cannot read, and his inability to do so "is not due to physical infirmity but that he desires to qualify as a voter by reason of his good character and his understanding of the duties and obligations of citizenship under a republican form of government, the fact that he could not read or write should be noted on the card." The registration cards are then turned over to the registrars for their consideration. Section 18 provides that a failure on the part of the applicant to disclose information sought by direct questions in connection with his application, or the giving of false information, shall be cause for the rejection of the application by the registrars on their own motion. Section 19 provides that all decisions of the registrars are appealable to the superior court.

Section 20 provides that as the cards are turned over to the registrars, they shall proceed to a consideration of the application in the following manner: (1) Where the application is on the basis of literacy, and it appears that the applicant read the selected portion of the constitution in-

POOR COPY

BLEED THROUGH

telligibly, and wrote it legibly, or that by reason of physical disability he could not read it, but was able to interpret it reasonably when read to him, and the card shows no reason for disqualifying him for noncompliance with the law, the registrars shall pass an order declaring the applicant prima facie qualified. "The interpretation in this case shall be in the applicant's own words, giving words the significance ordinarily attached to them by laymen of average intellect and attainments." (2) In those cases where the applicant applies for qualification solely on the basis of his good character and his understanding of the duties of citizenship under a republican form of government, he shall be notified in writing to appear before the full board of registrars, and shall at that time be subjected to an examination as to his or her qualifications, to be conducted in accordance with the procedure hereinafter prescribed (in section 21). (3) In cases arising under the preceding paragraph and in all cases arising under this act where the applicant is required to be served with a notice of a hearing, unless otherwise provided, said notice shall specify a day not less than one, nor more than ten days after the date of the notice. The notice may be served by mailing same to applicant at the address given on his application card. (4) Failure to appear at the time specified for the hearing of an application is declared to be cause for denying the application. However, the applicant may be reinstated on motion by him if he can prove that he was in fact not served with notice.

Section 21 provides that the examination which the registrars shall submit to those persons who claim the right to register and vote on the basis of good character and understanding of the duties of citizenship under a republican form of government shall be based upon a standard list of questions. The registrars shall orally propound to the applicant the thirty questions on the standard list set forth in section 22. If the applicant correctly answers ten of these questions the registrars shall enter an order declaring him to be prima facie qualified; if he cannot correctly answer ten of the thirty questions, an order shall be entered rejecting his application.

Section 22 provides a standard list of questions to be propounded only to those applicants who claim the right to

qualify on the basis of good character and understanding of the duties of citizenship. Some of these questions are: Who is the President of the United States? What is the President's term of Office? If the President dies, who succeeds him? How many Senators are there from Georgia? Who is the Governor of Georgia? Who is the Chief Justice of the Supreme Court of Georgia?; and other questions of like import dealing with civics and government.

Sections 24 to 46 inclusive of the act deal with the revision of registration lists; how persons becoming disqualified subsequent to registration may be dropped from the list; preparation of lists of those prima facie qualified to vote; use of lists at elections; procedure for having names placed on lists; provision that lists are open to public inspection. Section 47 provides for compensation of registrars, to be fixed by the judge of the superior court, and paid by the "county commissioners, or that person, or those persons, exercising the functions of county commissioners, from the county treasury. All payments hereunder shall be made in the usual manner county bills are paid." Sections 49 through 51 prescribe penalties for specified violations of the act.

The rule which governs us in the consideration of this question is succinctly and plainly stated in Miller v. Head, 186 Ga. 694, 708 S. E., as follows: "Accordingly, with respect to this phase of the case, we shall consider only the general question whether the act is invalid as a whole for any of the reasons urged, without adjudication as to any particular sections or parts of it, except as related to the general question. . . . This statement, however, is not to be taken as an intimation that other separate portions may or may not be unconstitutional." We are here concerned only with the validity of the voters' registration statute as a whole. In this case, an omnibus attack on the act will fail unless the statute is invalid in every part for some reason asserted. Stegall v. Southwest Georgia Regional Housing Authority, 197 Ga. 571 (1), 548 (S. E. 2nd); Krasner v. Rutledge, 204 Ga. 380, 382 (S. E. 2d).

3. Though no contention is made that this act or any section thereof contravenes the provisions of the constitution

POOR COPY

BLEED THROUGH

relative to qualification of voters, reference to those provisions indicate that the legislative purpose is to provide the necessary machinery to carry out these provisions, which are as follows:

Every citizen of this State shall be entitled to register as an elector, and to vote in all elections in said State, who is not disqualified under the provisions of Section II, of Article 11 of this Constitution, and who possesses the qualifications prescribed in Paragraphs II and III of this Section or who will possess them at the date of the election occurring next after this registration, and who in addition comes within either of the classes provided for in the two following subdivisions of this paragraph:

"1. All persons who are of good character and understand the duties and obligations of citizenship under a republican form of government,; or

"2. All persons who can correctly read in the English language any paragraph of the Constitution of the United States or of this State and correctly write the same in the English language when read to them by any one of the registrars, and all persons who solely because of physical disability are unable to comply with the above requirements but who can understand and give a reasonable interpretation of any paragraph of the Constitution of the United States or of this State that may be read to them by any one of the registrars." Constitution of 1945, Art. 2, sec. 1, par. 4, Ga. Ann. Code, sec. 2-704.

The right of suffrage is a political right, as compared with a property or civil right. In the absence of express constitutional grant of suffrage, it is not a vested, absolute, or natural right such as is deemed a citizen cannot be deprived of except by due process of law. The right to vote is not granted to a citizen by the United States constitution. Nor is it a privilege of a citizen of the United States under the Fourteenth Amendment to the Federal Constitution. Nor does the Fifteenth Amendment to that constitution abridge a State's power over suffrage, but only denies to the States any action which discriminates against citizens of the United States to qualify or vote, by reason of race,

color, or previous condition of servitude. Though the constitution of this State guarantees the right of suffrage to those who meet its qualifications, and they are entitled to register, and this right cannot be absolutely denied or taken away by legislative enactment, the legislature has the right to prescribe reasonable regulations as to how these qualifications shall be determined. The fact that a citizen who meets one of several tests provided by the constitution had to register or reregister does not deprive him of his constitutional right of suffrage, but is only a reasonable regulation under which the right may be exercised. For authorities supporting the foregoing, see: Stewart v. Cartright, 156 Ga. 192 (S. E.); Breedlove v. Suttles, 183 Ga. 189 (S. E.), affirmed in 302 U. S. 277, — Sup. Ct. —, — L. ed.; United States v. Cruikshank, 92 U. S. 542, — L. ed. —; Pope v. Williams, 193 U. S. 621, — Sup. Ct. —, — L. ed. —; Twining v. State of New Jersey, 211 U. S. 78, — Sup. Ct. —, — L. ed. — 78, — Sup. Ct. —, — L. ed. —; Guinn v. United States, 238 U. S. 347, — Sup. Ct. —, — L. ed. —; O'Neill v. Trask, 135 Wis. 333, 115 N. W. 823; Capen v. Foster, 12 Pick. (Mass.) 485, 23 Am. Dec. 632. See annotation in 91 A. L. R. 349.

The legislature, even in the absence of express constitutional power, can provide for registration of voters, but where the State constitution provides who shall be entitled to vote the legislature cannot take from or add to the qualification unless the power is granted expressly or by necessary implication. Tolbert v. Long, 134 Ga. 298 (S. E.). However, the legislature has a wide latitude in determining how the qualifications required by the constitution may be determined, provided it does not deny the right of franchise by making the exercise of such right so difficult or inconvenient as to amount to a denial of the right to vote. Klein v. Killenbrand (Ohio), 130 N. E. 29. Registration statutes have for their purpose the regulation of the exercise of the right of suffrage, not to qualify or restrict the right to vote. The constitution of this State, in setting up requirements for qualification of electors, contemplates enactment of laws to determine these qualifications. Paragraph 1 of sec. 2 of art. 2 of the constitution of 1945 (Ga. Code Ann., sec. 2-801),

POOR COPY

BLEED THROUGH

provides: "The General Assembly may provide, from time to time, for the registration of all electors." Registration laws are the means or machinery under which proofs are furnished showing the existence of the voter's qualifications. Mayor, & C. of Madison v. Wade, 88 Ga. 699 (— S. E. —); Mason v. Missouri, 179 U. S. 328, Sup. Ct. —, 45 L. ed. 214. However, such registration laws must be impartial, uniform, and reasonable, giving to all a fair and reasonable opportunity to exercise such right. Stephens v. Mayor, & C. of Albany, 84 Ga. 630, 636 (— S. E. —).

Every presumption favors the constitutionality of a regularly enacted statute. Only where it manifestly impinges upon the constitution or violates rights of citizens, will it be declared unconstitutional. The alleged conflict with the constitution must be plain and palpable. Coy v. Linder, 183 Ga. 583, 585 (— S. E. —); Culbreth v. Southwest Georgia Regional Housing Authority, 199 Ga. 183 (2) (— S. E. 2d, —).

4. The defendant asserts that the Voters' Registration Act as a whole violates certain specified provisions of the State constitution because (1), the act discriminates against the right of one to exercise his franchise, and therefore tends to take away the liberties of the voters of the State of Georgia without due process of law; (2), it impinges upon his duty to conserve the money of Richmond County under his control; (3), the act sets up a system of censorship contrary to a democratic form of government. His contentions as summed up in his brief are that the Voters' Registration Act, while requiring all persons who have previously registered to register again, has for its purpose to hamper and defeat the right of "a great class of the citizens of Georgia from voting." We know of no constitutional right possessed by a registered voter which prevents the legislature from requiring him to qualify as a voter in future elections. Counsel for the defendant have cited no authority, and we have found none, to support his contention that a voter who was on the registration list of qualified voters at the time of the passage of this act has a vested right to stay on the list.

The only time in the history of the registration laws of Georgia we have found in which a voter could claim a constitutional right to remain on the voters list without being required to reregister was by virtue of the amendment of 1908 (Ga. L. 1908, p. 27, Civil Code (1910), sec. 6395-6403, inclusive). This amendment provided that where one registered between October 7, 1908, and January 1, 1915, as a qualified voter under sub-section 1 or 2 of paragraph 4, section 1, article 2, he "shall thereafter be permitted to vote; provided he meets the requirements of paragraphs 2 and 3 of this Section." This guarantee of permanence of registration to this class of registered voters does not now exist. The constitution of 1945 did not carry forward paragraph 5, nor sub-sections 1 and 2 of paragraph 4, of section 1 of article 2 of the constitution of 1877 as amended. The minutes of the constitutional commission show that these provisions were considered and deliberately eliminated. The provisions of paragraph 1, section 1, and paragraph 1, section 2, or article 2 of the constitution of 1945 clearly indicate that the General Assembly was authorized to enact laws "from time to time for the registration of all electors", and "only those persons shall be allowed to vote who have been first registered in accordance with the requirements of law." Though section 3 of the act of 1913 (Ga. L. 1913, p. 115 Code sec. 34-115) did provide that "the electors who have qualified and have signed the permanent registration book, shall not thereafter be required to register or further qualify, except as may be required by the Board of Registrars", one who was on the permanent voters list at the time the Voters' Registration Act of 1949 was passed did not possess such status or "vested right" that prevented the General Assembly from changing or repealing previous registration laws and requirements as to qualifications of electors. The legislature having power to enact registration laws, the fact that one obtains a status under the provisions of one law does not amount to a contract or create a vested right that prevents a subsequent legislature from repealing the old law and passing a new one. Hamrick v. Rouse, 17 Ga. 56; Swindle v. Brooks, 34 Ga. 67; Hardeman v. Downer, 39 Ga. 425; Munn v. Illinois, 94 U. S. 113,

POOR COPY

BLEED THROUGH

— L. ed. —; The Chinese Exclusion Case, 130 U. S. 581, — Sup. Ct. Rep. —, — L. ed. —; Chicago & Alton Railroad Co. v. Tranbarger, 238 U. S. 67, — Sup. Ct. —, — L. ed.—. It may be that those voters who are now on the permanent voters list will be put to great inconvenience in registering again, but this standing alone is not a sufficient reason to strike down the act. Courts are not free to nullify a statute merely because it appears to be absurd. Flint River Steamboat Co. v. Foster, 5 Ga. 194 (2). Nor do courts have anything to do with either "the wisdom, policy, or expediency of a law. These are matters purely of legislative deliberation and cognizance." Winter v. Jones, 10 Ga. 190 (6). See also Delaney v. Plunkett, 146 Ga. 547 (— S. E. —); Norman v. Baltimore & Ohio Railroad Co., 294 U. S. 240, — Sup. Ct. —, — L. ed. —; Bayside Fish Flour Co. v. Gentry, 297 U. S. 422, — Sup Ct. —, — L. ed. —.

The main purpose of the Voters' Registration Act is to require all persons who are qualified to vote under the constitution to register before voting. "If the legislature had other or additional purposes, which, considered apart, it had no constitutional power to make effective, that would not have the result of making the act invalid." Stephenson v. Binford, 287 U. S. 251 (7), 276, — Sup. Ct. —, — L. ed. —.

We are therefore of the opinion that the Voters' Registration Act of 1949 is not invalid in every part for the reasons asserted by the defendant as being violative of specified provisions of the constitution of this State, and therefore hold that the trial court did not err in overruling the grounds of demurrer which asserted the invalidity of the act as being in violation of art. 1, sec. 1, par. 3, or art. 1, sec. 1, par. 1, or art. 1, sec. 1, par. 2, of the State constitution.

5. It is asserted that the act as a whole violates the fourteenth amendment to the Federal constitution because it abridges the privileges and immunities of citizens, and deprives them of liberty without due process of law, since the right to vote is the very foundation of a democratic form of government, and said act sets up a board "which has power to discriminate and censor the right of citizens

to vote." In substance, the defendant says that the act denies (a), persons liberty without due process of law; (b), a citizen of the equal protection of the law, because it sets up a board with power to censor the right of a citizen to vote; but it is not pointed out how or in what manner the act denies to him without due process of law a right or liberty which is guaranteed by the fourteenth amendment. He asserts that the act denies to citizens the liberty of voting. As we have shown, the fourteenth amendment does not confer upon a citizen of this State the right to vote. United States v. Cruikshank, 92 U. S. 542, supra. Nor is such right a privilege of a citizen of the United States. Pope v. Williams, 193 U. S. 621. It is a political right, not a civil or property right. Moore v. Colorado Midland Ry. Co. (Colo.), 109 Pac. 430; Walls v. Brundidge, 109 Ark. 250; Minor v. Happersett, 88 U. S. 162. We have further shown that the fourteenth amendment does not prevent a state from enacting laws requiring qualified voters to register. Unless such laws nullify or unreasonably abridge the right to vote, they are not subject to the charge that they violate the fourteenth amendment.

As to the charge that the act as a whole sets up a board of censors "which has power to discriminate and censor the right of citizens to vote," we take it that the plaintiff attempts to assert that the act violates the equal protection clause of the fourteenth amendment. However, he does not show how or in what manner the act operates to his hurt or to the hurt of others. There is no assertion that he or anyone else who is qualified under the constitution to vote has sought to register and been unlawfully denied the right to register. Nor does he point out how or in what manner the act empowers the Board of Registrars to discriminate against his right or that of any other citizen. See in this connection, Cooper Company of Gainesville v. State, 187 Ga. 497, 501 (6) (— S. E. 2d. —); Wiley v. Sinkler, 179 U. S. 58, — Sup. Ct. —, — L. ed. —; McGrael v. Phelps, 144 Wis. 1, 128 N. W. 1041; Hendrick v. Maryland, 235 U. S. 640, — Sup. Ct. —, — L. ed. —.

So we are of the opinion that the ground of demurrer which attacks the Voters' Registration Act as violative of

POOR COPY

BLEED THROUGH

the Fourteenth Amendment to the Federal constitution was properly overruled.

6. It is next asserted that the Voters' Registration Act violates the Fifteenth Amendment to the Federal constitution, because it abridges the right of citizens to vote because of race, or color, and leaves to three men unlimited and arbitrary power to declare them ineligible to vote. This amendment only denies to the States the authority to discriminate on account of race, color, or previous condition of servitude. United States v. Reese, 92 U. S. 214, — L. ed. —; Guinn v. United States, 238 U. S. 347, — Sup. Ct. —, — L. ed. —. We can find nothing in the act that indicates the law has the effect of denying to any qualified voter the right to register on account of race, color, or previous condition of servitude that would form the basis for the defendant to challenge the statute as violating the Fifteenth Amendment.

In support of his contention that the act violates this Amendment, counsel for the plaintiff cite the cases of Davis v. Schnell, 81 Fed. Supp. 872, and Smith v. Allwright, 321 U. S. 649, — Sup. Ct. —, — L. ed. —. In each of these cases, the person challenging the statute in question was a member of a class that the court held the statute proposed to discriminate against. No contention is made here that the act as a whole discriminates against the class of which the defendant is a member. Neither of the cases cited is controlling upon the question that the defendant makes in this case.

The mere possibility that the Board of Registrars may under this statute act arbitrarily or recklessly in administering the law and thereby violate constitutional rights is not a ground for declaring the act as a whole unconstitutional. Monongahela Bridge Co. v. United States, 216 U. S. 177, — Sup. Ct. —, — L. Ed. —.

We are therefore of the opinion that the ground of demurrer that the Voters' Registration Act in its entirety violates the Fifteenth Amendment to the Federal constitution was properly overruled.

7. Another ground of demurrer asserts that the plaintiffs have an ample remedy at law and can sue at law to recover

their salaries, and further, that the petition does not show that if the defendant signed the warrants, that alone would cause the treasurer of the county to pay the same, because it does not appear from the petition that this defendant has any funds in his hands out of which the court could compel payment of the salaries claimed and that to grant the writ of mandamus would be fruitless. It appears from the allegations of the petition that plaintiffs are seeking to require the defendant to sign warrants *for* the payment of their respective salaries, and not to require the defendant to *pay* their salaries from public funds. The question as to whether a county officer in charge of its fiscal affairs can be required by mandamus to sign warrants for the payment of county warrants under a statute creating such Board of Registrants, out of county funds, we think is settled by the case of Howell v. Bankston, 181 Ga. 59 (1) (— S. E. —). There three persons, duly appointed and qualified county registrars under statutory provisions, instituted mandamus proceedings to compel the Board of Commissioners of Roads and Revenues of Butts County to issue warrants on the county treasurer for stated amounts due them for preparing voters lists. The defendant commissioners demurred on the grounds (1), there was no authority in law for the writ of mandamus requiring them to pay an unliquidated account, (2) the petition did not allege wherein the county was liable for the accounts and no legal authority was shown to authorize the defendants to levy a tax to pay the claims, and no legal right against the defendants for refusing to issue a warrant payable out of county funds. This court held that under the constitution and statutes of Georgia, "county commissioners are authorized to pay, from general county funds, the costs of county registrars in preparing lists of voters." It was further held that no valid ground of demurrer existed because the plaintiffs' demand for compensation was not liquidated, or in judgment. This case has been cited with approval in Leverette v. Leonard, 192 Ga. 359 (— S. E. 2d, —). This ground of demurrer was properly overruled.

8. The assignments of error on overruling certain specified grounds of demurrer, which are not argued in the brief

POOR COPY

BLEED THROUGH

of counsel for the plaintiff in error, will not be considered by this court.

9. It appearing from the evidence before the trial judge that the plaintiffs had been duly appointed and qualified as the Board of Registrars, and their salaries fixed by the court under the provisions of the Voters' Registration Act, and that they were entitled to be compensated for their services, and it further appearing that it was the duty of the defendant, as Chairman of the Board of Commissioners of Roads and Revenues, to sign the warrants for their compensation when presented to him, the lower court did not err in making the writ absolute.

Judgment affirmed.

All the Justices concur.

EXHIBIT B

VOTERS' REGISTRATION ACT

No. 297 (House Bill No. 2)

To be entitled an Act to effect a complete revision of all and singular the laws of this State in any dealing with the subject of registration and qualification of voters by providing for the annulment of all registrations heretofore effected by providing for a permanent registration and providing for the cancellation of the registration of voters who fail to vote in at least one election in a two-year period and fail to request a renewal of their registration and the procedure to be followed with respect to such persons, the manner of applying for registration, the procedure to be followed by the county registrars in handling such applications, the forms to be used in connection therewith, the tests to be submitted to voters in connection therewith, the tests to be submitted to voters before qualification, the appointment and qualification of county registrars, their deputies, their terms, powers, duties and compensation; to provide for the preparation of a disqualified list by the clerk

of the superior court, the tax collector and/or tax commissioner and ordinary, their duties and compensation; to provide for the preparation of a qualified voters' list for general elections and primaries and a supplemental list for special elections and primaries and the use and disposition of the same; to provide for hearings and proceedings on the subject of registration, qualification and challenge of voters; the notices to be given and served, the subpoenas to be issued, the manner and method of service, appeals from the decisions of the registrars and how made; to prescribe the questions to be submitted to applicants and that such questions and no others be used in testing them; to provide for the penalty of disfranchisement for those giving false information or failing to give correct information in response to queries of the registrars or their deputies; to provide for the voting of persons removing from one county or militia district to another; to provide that any person who shall sign more than one registration card or who shall sign the registration card in an assumed or fictitious name, or who shall vote more than once, or who shall vote in an assumed or fictitious name, or vote without signing the registration card, or who shall aid or abet any one else in doing these things shall be guilty of a misdemeanor; to provide that any registrar or deputy who permits one to sign the voter's oath without reading it shall be guilty of a misdemeanor; to provide that any registrar or any other person who falsified any registration card or voters' list shall be guilty of a felony, and prescribing the punishment and penalty therefor; to provide for the registrars furnishing authorities of municipalities and boards of education voters' lists for election purposes, and the compensation of the registrars for furnishing such lists, to declare the intention of the General Assembly in passing this Act, to provide that in all counties of this State having a population of 200,000 or more, according to the present or any future United States census, the county tax collector or the county tax commissioner, as the case may be, together with two deputies of said collector or commissioner, to be named by the collector or commissioner, shall constitute the county registrars in such counties, and for other purposes.

POOR COPY

BLEED THROUGH

Be it enacted by the General Assembly of the State of Georgia, and it is hereby enacted by the authority of the same:

Section 1. That effective from the date of the approval of this Act no person shall be permitted to vote in any election in this State for presidential electors, for members of Congress, for United States Senator, for Governor, Lieutenant Governor, for State House officers, for members of the General Assembly, for county officers, county commissioners, justices of the peace, for constables, for members of county board of education, where chosen by the people, nor in any popular election to fill any other State or county office now existing or hereafter created, nor in any State or county election for any purpose whatsoever, unless such person shall have been registered and qualified as hereinafter provided.

Section 2. That except as hereinafter provided with reference to any special election occurring before the first general election list shall have been prepared as provided in this Act, all registrations heretofore effected are hereby declared null and void.

Section 3. The first registration list hereunder shall be prepared in the year 1950, but the process of registration under this Act shall start immediately on its passage and approval and all persons seeking to register and qualify as voters shall be registered and qualified as herein provided.

Section 4. The registration provided for in this Act shall be permanent, but electors shall be required to maintain their status as qualified voters by the exercise of their franchise at least once in every two years as herein provided.

Section 5. At any special election, held before the first list under the terms of this Act shall have been prepared and filed, the general election list of qualified voters of the year 1948, in conjunction with a supplemental list prepared in accordance with the special election provisions hereafter set forth shall be used. In the same manner the last general election list of qualified voters shall be used for any special election occurring after said list is prepared but

before the preparation of a new general election list. Nothing in this section shall be construed so as to prevent the registrars from purging said old list and the supplemental list and remove therefrom those persons not entitled to vote.

Section 6. The judge of the superior court of each county shall appoint quadrennially three upright and intelligent citizens of said county upon the recommendation of the grand jury of said county as county registrars. The grand jury shall submit to the judge the names of six upright and intelligent citizens and the appointment shall be made from the six submitted. The appointments shall be entered on the minutes of the court. Said appointment shall be for a term of four years and the appointees shall hold office until their successors are appointed and qualified. The said judge shall have the right, however, to remove said registrars at any time upon the recommendation of the grand jury, or upon proof that said registrars have failed to discharge their duty or are unfit for said appointment, and the judge of said court shall have the power to appoint successors in case of removal, death or resignation, who shall hold office until the next regular term of the grand jury of said county, when a new registrar or registrars shall be recommended by the grand jury and appointed by the judge as provided herein. If at the time appointments are to be made, the grand jury has been discharged, the judge shall recall them for the purpose of making recommendation as aforesaid. The first appointees hereunder shall have a five year term ending in 1953.

Section 7. Notwithstanding any other provision of this law, in all counties of this State having a population of 200,000 or more, according to the present or any future United States census, the county tax collector or the county tax commissioner, as the case may be, together with two deputies of said collector or commissioner, to be named by the collector or commissioner, shall constitute the county registrars in such counties. The order of the tax collector or tax commissioner appointing such deputies shall be filed in the office of the clerk of the superior court and there permanently preserved. In the event said tax collector or tax commissioner, or any deputy named by the collector or com-

POOR COPY

BLEED THROUGH

missioner as registrar, should cease to hold office as collector, commissioner, or deputy, prior to the expiration of his term as registrar, his successor in office shall serve the unexpired term. In the event of removal of any such registrar, as provided in Section 6 of this Act, a successor in office shall be appointed by the judge of the superior court from two names recommended by the grand jury for appointment to the unexpired term, and these proceedings shall be entered upon the minutes of the court.

Section 8. Before entering upon his duties each of the county registrars shall take the following oath before some officer authorized to administer oaths under the laws of this State; to wit: "I do solemnly swear that I will faithfully and impartially discharge to the best of my ability, the duties imposed upon me by law as county registrar."

Section 9. The tax commissioner or tax collector of the county shall be a deputy to the boards of registrars and shall perform the duties required of him under this Act. Said tax collector or tax commissioner may, with the assent of the board of registrars, designate one or more of his own deputies, to act as additional deputies. The registrars may appoint additional deputies and hire clerical help to aid them in the discharge of their duties.

Section 10. The registrars of the several counties shall supply themselves with a supply of registration cards in the form hereinafter prescribed which shall be used by them in connection with the qualifying of those persons seeking to register as qualified voters.

Section 11. The form of the registration card shall be as follows:

REGISTRATION CARD

District ..... Name ..... Date .....
"Georgia, ... County.

I do swear, or affirm, that I am a citizen of the United States; that I am 18 years of age, or will be on the ..... day of ..... , 19.... ; that I have resided in this State for one year, and in this county for

six months, immediately preceding the date of this oath, or whil have so resided on the ..... day of this calendar year; that I believe I possess the qualifications of an elector required by the Constitution of this State; that I am not disfranchised from voting by reason of any offense committed against the laws of this State. I further swear, or affirm, that I reside in the ..... District, G. M., or in the ..... ward of the City of ....., at number .... on ..... Street; that my age is .... ; that I was born ..... ; that my mother's maiden name is or was ..... ; that my occupation is ..... . I further swear or affirm that I have correctly answered the question appearing elsewhere on this card under the words: "Question propounded to applicant."

(Sign here) .....

Sworn to and subscribed in the actual present of:

.....

(Deputy) Registrar.

Question Propounded to Applicant

1. Have you ever been convicted of a felony or crime involving moral turpitude? If so, name the offense, the place and court of conviction and the approximate date.

To be Filled in By Deputy or Registrar

1. The applicant read (could not read) Article ..... Section ....., Paragraph ..... of the Constitution of Georgia (United States) intelligibly (unintelligibly).

2. The applicant wrote (could not write) Article ....., Section ....., Paragraph ....., of the Constitution of Georgia (United States) legibly (illegibly).

3. The applicant stated that due solely to physical infirmity he could not read. Article ....., Section ....., Paragraph ....., was read to him and he explained it intelligibly. (Could not explain it).

4. Applicant was this day served with notice to appear before registrars on ..... day of ....., 19....

POOR COPY

BLEED THROUGH

The above form may be printed on cards or separate pieces of paper, which in addition to the form may contain such other data as the registrars may desire to enter thereon, but for convenience the card, or sheet, or sheets of paper shall be referred to as the "Registration Card."

Section 12. The registrars shall designate one of their number, or any deputy employed by them, to take charge of the registration cards. The said registrars, or either of them, or any deputy employed by them may administer the oath required of an elector and attest the same.

Section 13. The registrars shall keep said registration cards at the tax collector's or tax commissioner's office, where one or more of their number, or one or more of their deputies shall be for the purpose of taking applications for registration. The presence of any such official shall not be required except at such times as said office is open at regular hours.

Section 14. The registrars shall, in each year in which there is an election for Governor or members of the General Assembly, cease their operations of taking applications from persons desiring to vote in such election six months before the date of such election. During the period while the general election list is being prepared they may suspend the operation of taking applications from those desiring to vote in subsequent elections, provided the office shall be kept open at least one day and the same day in each week during this period for receiving applications, and provided this day is advertised in the official organ of the county.

Section 15. Any person desiring to be registered and qualify as a voter shall apply to the registrars, or to the deputy stationed in the office of the tax collector or tax commissioner. Such person shall furnish the official with information which will enable him to fill all of the blanks appearing on the front and back of the registration card. On completion of the form the official shall administer the oath to the applicant and then have him sign it, and the official shall then attest it.

Section 16. Upon request of the applicant the official taking the application shall read or repeat the voter's oath distinctly to the applicant, and if the applicant cannot sign his name, the said officer shall sign it for him, the applicant making his mark thereto.

Section 17. Before the form of the voter's oath is completed the official in charge shall inquire of the applicant whether he has ever been convicted of any felony or crime involving moral turpitude in any court in this or any other State. If the answer is in the affirmative a notation shall be made upon the card of the crime, the date and the court of conviction. If the offense is one of those enumerated in Paragraph I of Section II of Article II of the Constitution of this State the registrars shall summarily reject the application. The official shall also submit to the applicant for his perusal one of several sections of the Constitution of this State or of the United States, which sections shall have been previously selected by the registrars, and the applicant shall be required to read it aloud, and write it out in the English language. The section so submitted shall be noted on the registration card, and whether or not it was intelligibly read and legibly written out should be noted. In all cases where it appears that the applicant solely because of physical disability is unable, to read, the section shall be read to him by the official and he shall be called upon to give a reasonable interpretation of it. The opinion of the official as to whether the interpretation is reasonable shall be noted on the card, and the card shall be turned over to the registrars. If the applicant states he cannot read or write and his inability to do so is not due to physical infirmity, but that he desires to qualify as a voter by reason of his good character and his understanding of the duties and obligations of citizenship under a republican form of government, the fact that he cannot read and write shall be noted on the card. As the registration cards are completed they shall be turned over to the registrars for their consideration.

Section 18. The failure on the part of the applicant to disclose information sought by a direct question of the

POOR COPY

BLEED THROUGH

registrars, or either of them, or their deputy, in connection with the taking of the application or at subsequent proceedings, or the giving of false information, shall be cause for the applicant's application to be rejected by the registrars on their own motion, and shall also be a cause for challenge, which if sustained, shall result in the voter's name being removed from the list.

Section 19. All decisions of the registrars under this Act are subject to appeal and all appeals must be in writing and shall be filed with the registrars within ten days from the date of the decision complained of, and shall be returned by the registrars to the office of the clerk of the superior court to be tried as other appeals. Pending the appeal and until final judgment in the case, the decision of the registrars shall remain of full force.

Section 20. As the registration cards are turned over to the registrars they shall proceed to a consideration of the qualifications of the applicants in the following manner:

1. In those cases where the applicant applied for qualification on the basis of literacy and it appears from the data on the registration card that he read the selected portion of the Constitution intelligibly and that he wrote the selected portion legibly, or that solely by reason of a physical disability he could not read it, but was able to interpret the selected portion reasonably when read to him, and said card shows no reason for disqualification, or non-compliance with the provisions of the law, the registrars shall pass an order declaring the applicant prima facie qualified. The interpretation in this case shall be in the applicant's own words, giving words the significance ordinarily attached to them by laymen of average intellect and attainments. In those cases where it appears from the registration card that the applicant could not write the selected portion of the Constitution legibly or could not read it intelligibly the registrars shall test him in the same manner as a person applying for leave to register and vote by reason of good character and understanding of the duties of citizenship under a republican form of government as herein provided.

2. In those cases where the applicant applied for qualification solely on the basis of his good character and his understanding of the duties of citizenship under a republican form of government, he shall be notified in writing to appear before the full board of registrars on a day and time certain and he or she shall at that time be subjected to an examination as to his or her qualifications, said examination to be conducted in accordance with the procedure hereinafter prescribed. If no reason for disqualification is developed by the examination and it discloses no noncompliance with the law, the registrars shall pass an order declaring the applicant prima facie qualified. If reason for disqualification is shown, an order shall be passed rejecting the application, and stating the reason.

3. In cases arising under the preceding paragraph and in all cases arising under this Act where the applicant or the voter as the case may be is required to be served with a notice of a hearing, unless otherwise provided, said notice shall specify a day not less than one, nor more than ten days after the date of the notice. The notice may be served by mailing same to applicant or voter at the address given on his application card. In the case of an application for registration, the official may hand the applicant a copy of the notice in person at the time he applies for registration, and this service shall be sufficient. The registrars, if present or in session at the time an application is filed, may proceed to the examination of the applicant instanter and without notice.

4. Failure to appear at the time specified in any notice under this section or in any notice given in connection with any hearing under this Act shall constitute cause for dismissing an application or of removing a voter's name from the list and the registrars shall enter an order to that effect. No new application for registration shall be received from the applicant until after the beginning of the next calendar year. However, the application may be reinstated on motion of the applicant, if he can prove that he was not in fact served with such notice or furnished with a notice.

POOR COPY

BLEED THROUGH

5. In all cases under this section and under this Act where an order is entered denying the application or removing a voter's name from the list, the registrars on the day that the order is issued shall notify the party by mail addressed to the address shown on the registration card. If any adverse decision is reached when the party is present no such notice is required.

Section 21. The examination which registrars shall submit to those persons who claim the right to register and vote on the basis of good character and understanding of the duties of citizenship under a republican form of government shall be based upon a standard list of questions, and the questions on this list and no others shall be submitted to each applicant. In each instance where an applicant in this category is examined, the registrars shall keep a record of the questions submitted and the answers given and file the record thus made with the registration card. In order to ascertain whether an applicant is eligible for qualification as a voter in this classification, the registrars shall orally propound to him the thirty questions on the standardized list set forth in the following section. If the applicant can give factually correct answers to ten of the thirty questions as they are propounded to him, then the registrars shall enter an order declaring him to be prima facie qualified. If he cannot correctly answer the ten out of the thirty questions propounded to him, then an order shall be entered rejecting his application.

Section 22. The registrars shall procure an ample supply of cards or sheets of paper on which shall be printed the standard list of questions set forth below. One of such cards or sheets of paper shall be used in the oral examination of each applicant who seeks qualification as a voter in the classification set forth in the preceding section. The cards shall show in one column the correct answers to the questions, and the answers of the applicant shall appear in a parallel column, so that each question, the correct answer thereto and the applicant's answer will all appear on the same line. If the answer is incorrect, the answer of the applicant should be written in said column. It shall be

the duty of the registrars to see to it that the answers in the column showing the correct answers are revised from time to time so that the correct answers will appear in the appropriate column at the time each applicant is examined. The standard list of questions and the present correct answers thereto and the form to be used under this and the preceding section is as follows:

Standard List of Questions

(To be propounded to those seeking to register and qualify as voters under Article II, Section I, Paragraph IV, Sub-Paragraph 1 of the Constitution.)

Date of Examination ——.
Name of Applicant ——.
Address of Applicant ——.

Questions	Answer	Answer of Applicant
1. Who is President of the United States?	Harry S. Truman	
2. What is the term of office of the President of the United States?	Four Years	
3. May the President of the United States be legally elected for a second term?	Yes	
4. If the President of the United States dies in office, who succeeds him?	Vice-President	
5. How many groups compose the Congress of the United States?	Two—The Senate and the House of Representatives	
6. How many United States Senators are there from Ga.?	Two	
7. What is the term of office of a United States Senator?	Six Years	
8. Who are the United States Senators from Georgia?	Walter F. George and Richard B. Russell	
9. Who is Governor of Georgia?	Herman Talmadge	
10. Who is Lieutenant-Governor of Georgia?	Marvin Griffin	
11. Who is Chief Justice of the Supreme Court of Georgia?	Henry Duckworth	
12. Who is Chief Judge of the Court of Appeals of Georgia?	I. H. Sutton	
13. Into what two groups is the General Assembly of Georgia divided?	Senate and the House of Representatives	
14. Does each Georgia County have at least one representative in the Georgia House of Representatives?	Yes	

POOR COPY

BLEED THROUGH

Questions	Answer	Answer of Applicant
15. Do all Georgia counties have the same number of representatives in the Georgia House of Representatives?	No	
16. In what city are the laws of the United States made?	Washington, D. C.	
17. How old do you have to be to vote in Georgia?	18 Years Old	
18. What city is the capital of the United States?	Washington, D. C.	
19. How many states are there in the United States?	48	
20. Who is the Commander-in-Chief of the United States Army?	The President of the United States	

(The following questions requiring a different answer according to the localities in which the applicant lives, the registrars in printing this list will insert under the column headed "Correct Answer" the correct answer to each question.)

Questions	Correct Answer	Answer of Applicant
21. In what Congressional District do you live?		
22. Who represents your congressional District in the National House of Representatives?		
23. In What State Senatorial District do you live?		
24. Who is the State Senator that represents your Senatorial District?		
25. In what County do you live?		
26. Who represents your County in the House of Representatives of Georgia? If there are more than one representative, name them.		
27. What is the name of the County seat of your County?		
28. Who is the Ordinary of your County?		
29. Who is the Judge of the Superior Court of your circuit? If there is more than one, name one additional Judge.		
30. Who is the Solicitor General of your circuit?		

Total Correct Answers..... ————————"

The registrars shall keep a reasonable supply of extra copies of the question and answer blanks and distribute them to any member of the public who may request copies.

Section 23. The electors who have qualified shall not thereafter he (be) required to register or further qualify, except as may be required by the board of registrars. No person shall remain a qualified voter who does not vote in at least one election within a two-year period unless he shall specifically request continuation of his registration in the manner hereinafter provided.

Within sixty (60) days after the first day of January in each year beginning on January 1, 1952, the tax collector or tax commissioner, as the case may be, shall revise and correct the registration records in the following manner:

He shall examine the registration cards and shall suspend the registration of all electors who have not voted in any general, special or primary election, State, county or municipal, within the two years next preceding said first day of January, except as may be forbidden by Article 2, Section 1, Paragraph 5 of the Constitution of the State of Georgia; provided, however, that on or before March 1st of said year he shall mail to each elector at the last address furnished by the registrant, a notice substantially as follows:

"You are hereby notified that according to State law, your registration as a qualified voter will be cancelled for having failed to vote within the last two years, unless on or before April 1st of the current year you continue your registration by signing the statement below and returning it to this office or by applying in person.

Application for continuation of registration:

"I hereby certify that I reside at the address given below and apply for continuation of my registration as a voter.

Signature of elector .....

Present residence address .....

Date .....

POOR COPY

BLEED THROUGH

Effective April 1, 1952, the tax collector or the tax commissioner, as the case may be, shall cancel the registration of all electors thus notified who have not applied for continuance, and the names of all such electors shall be wholly removed from the list of qualified electors. Any elector whose registration has been thus cancelled may re-register in the manner provided for original registrations. No person shall remain a qualified voter longer than he shall retain the qualification under which he registered. As the 1948 voters' list is preserved for special elections which may take place prior to the preparation and filing of the first general election list hereunder, the tax collector shall until such time conform to the provisions of Section 34-115 of the 1933 Code as amended by act approved February 5, 1945 and more fully appearing on page 133, etc., of the Acts of the General Assembly of 1945, but the time for mailing the notice provided for in said Code section is hereby extended for an additional fifteen days.

Section 24. The tax collector or tax commissioner and the clerk of the superior court and the ordinary of each county shall, on or before the 20th day of April in each year, prepare and file with the registrars a complete list, alphabetically arranged, of all persons living in the county on the 10th day of April of that year, who appear to be disqualified from voting by reason of idiocy, insanity, or conviction of a crime, the penalty of which is disfranchisement, unless such convict has been pardoned and the right of suffrage restored to him, or by reason of death as evidenced by the records of the local registrar of vital statistics or otherwise. The tax collector or tax commissioner, as the case may be, shall furnish the names of those removed from the list of registered voters for failure to request continuation of his registration after written notice stating that said registration will be cancelled for failure to vote within the past two years.

Section 25. In preparing said list of disqualified persons, said tax collector, or tax commissioner, ordinary and clerk of the superior court shall act on the best evidence obtainable by them, and they shall especially examine and

consider the records of the criminal courts of the county. In the event that there is a difference of opinion among said three officers as to whether any name or names shall be placed on said list of disqualified persons, the concurrent votes of any two shall control in the matter. The tax collector or tax commissioner, as the case may be, shall also enter on the list of disqualified voters the names of those who have failed to vote in at least one election within the past two years and who have failed to request continuation of their registration after written notice that their registration will be discontinued for failure to vote in at least one election within the past two years.

Section 26. The registrars shall on the 20th day of April in each year in which a general election is to be held, or on the day thereafter if the 20th day of April occurs on a Sunday, begin the work of perfecting a true and correct list of the qualified voters of their county. They shall place on said list only those persons they have found to be prima facie qualified to vote under the terms of this Act and those persons whose applications were pending on said date and whom they shall subsequently find to be prima facie qualified to vote. In preparing said list they shall examine the list of disqualified persons furnished them by the tax collector or tax commissioner, the ordinary and the clerk of the superior court, and if any applicant's name is found thereon they shall not place his name on the voter's list. If the information comes to them after the preparation and filing of the list they shall call upon him to show cause why it should not be removed from the list.

Section 27. The registrars shall proceed with their work of perfecting said list of qualified voters and shall complete the same not later than June the first. In any county in which the registrars find that one board cannot complete its work by said date, they may call upon the judge of the superior court to appoint one or more assistant boards of registrars with like duties and responsibilities, and the work shall be divided as the regular board may direct. Should the registrars be unable for any reason to complete their work by said date, then the said registrars may

POOR COPY

BLEED THROUGH

at any time before the 20th day of August during the year in which general elections are held, make and file said list of registered and qualified voters.

Section 28. Within five days after completing said list of qualified voters, the registrars shall file with the clerk of the superior court of their county the completed list as prepared and determined by them. Said list shall be alphabetically arranged by militia districts, and in case a city is located in the county, by the wards of said city, and the said list shall be the list of the registered and qualified voters for the general election to be held in said year for the Governor and other State officers and members of the General Assembly. No person whose name does not appear on said list shall vote or be allowed to vote at said general election or at any party primary to nominate candidates for the offices to be filled at said general election, except as hereinafter provided.

Section 29. Each person whose name is on said list for the general election shall be entitled to vote in said general State election for said year, and all primaries to nominate candidates for offices to be filled at said general elections, and also at the Federal election in November of said year, and the election in November of said year, and the election for justices of the peace and constables to be held in said year, and at all primaries for the nomination of candidates for the offices to be filled at said elections and at all primaries for county offices, and all other primaries and elections to be held for any purpose during said year and after the filing of said registration list or during the succeeding year, provided, however, that such person is not found to be disqualified subsequent to the filing of the list.

Section 30. If any person whose name is not on said registration list, desires to vote at any election or primary subsequent to the general State election whether in said year or in the succeeding year, he shall at least six months before the election at which he desires to vote, apply to be registered as a voter, and his application shall be processed in the same manner as the applications of persons qualify-

ing to vote in the general election. The registrars shall, six months before such election other than the general State election, cease taking applications to qualify persons to vote in such election and shall within twenty-five days thereafter pass upon such qualifications in the same manner as in other cases and file with the clerk of the superior court a supplemental list showing the names of additional voters who are entitled to vote at such election subsequent to the general election. Any person whose name appears upon said list may vote at such election and at any primary to nominate candidates for offices to be filled at said election, provided that the registrars shall purge said list before filing it of the names of all persons who will not be qualified to vote at said election. All voters on said list shall have the same rights as to elections subsequent to such election as persons on the list for the general election. Provided, that at any special election the provisions of the next succeeding section shall be followed as to registration and voting.

Section 31. Any person who has registered for a general election shall, if otherwise qualified to vote at any special election before the next general election, be listed and entitled to vote at such special election. Five days after the call of said special election, the registrars shall cease taking applications from persons desiring to register and qualify to vote therein, and proceed to examine into the qualifications of the applicants in the same manner as herein provided with reference to applicants desiring to qualify to vote in general elections. The registrars shall then prepare a supplemental list showing the names of additional voters who are entitled to vote at such special election, and any persons whose names appear on said list may vote at such special election, but the registrars shall purge said list before filing it of all persons who will not be qualified to vote in the same manner as provided with reference to the list for the general election. The list so prepared and arranged alphabetically and divided according to districts and wards as in the case of general election lists shall be filed in the office of the clerk of the superior court within ten days after the call of said special election. It

POOR COPY

BLEED THROUGH

shall be the duty of the registrars upon the call of a special election to purge the list of registered voters prepared for the last general election of any names subsequently disqualified for any reason and to furnish the managers of such special election two lists, one composed of the names of voters entitled to vote by reason of their registration and qualification for the last general election, and the other made up of the names of those entitled to vote by reason of their subsequent registeration as hereinbefore provided, and no one shall be entitled to vote in said special election unless his name is on one of the lists furnished by the registrars.

Section 32. The board of registrars shall have the right and shall be charged with the duty of examining from time to time the qualifications of each elector whose name is entered upon the list of qualified voters, and shall not be limited or estopped by any action taken at any prior time.

Section 33. Any person, who, after application, was unlawfully denied the right to qualify as a registered voter, may have his name placed upon the list of registered voters, upon satisfactory showing made to the registrars that he is entitled to register and qualify. The registrars shall not be confined to the evidence furnished by the list of disqualified voters, but may have access to the original papers or books from which said lists were compiled, and may hear any competent written evidence or oral testimony, under oath, concerning the disqualification of any person whose name appears on the list taken from the registration cards. The registrars may likewise hear any competent written evidence or oral testimony, under oath, concerning the removal of the disqualification of any person whose name appears on the list of disqualified voters. The names of all persons who were not of age, or who had not resided in the State and county the requisite time at the date of filing an application for registration and qualification, shall be placed on the proper lists prepared for any election occurring after the date when such persons reached the age of eighteen years or have resided in the State and county the requisite time, provided such persons are otherwise qualified.

Section 34. For the purpose of determining the qualification or disqualification of persons as aforesaid, the registrars may, upon one day's notice, require the production of books, papers, etc., and upon like notice may subpoena and swear witnesses. If the registrars shall differ among themselves upon any question coming before them, the concurrent votes of two of said registrars shall control.

Section 35. The sheriff, his deputy, or any lawful constable of said county may serve all summonses, notices, and subpoenas, as issued by said registrars, and shall receive such compensation as is customary for like services.

Section 36. If the right of any person whose name appears on the list of qualified voters is questioned by the registrars, said registrars shall give such person written notice of the time and place of the hearing which shall be served upon said person in the manner hereinbefore provided for other notices.

Section 37. The list of registered voters prepared by the registrars shall be open to public inspection, and any citizen of the county who is himself a registered and qualified voter shall be allowed to contest the right of registration of any person whose name appears upon the voters' list, and upon filing a contest as to the qualifications of the voter the registrars shall notify the voter and pass upon the contest. Each challenge shall specify the grounds of the challenge, and when notice is given the voter by the registrars, a copy of such challenge shall be furnished the challenged voter at least one day before passing upon the same.

Section 38. The registrars shall, at or before the hour appointed for opening the polls, place in the possession of the managers of the election at each voting precinct in the county one or more printed or clearly written copies of the lists of registered voters for such militia district or city ward in which the voting precinct is situated, said list to contain all the information hereinbefore provided for; and the registrars shall, in like manner, place in possession of the election managers of the voting precinct at the courthouse, at the county seat, proper lists for each militia district, the voting precinct of which is situated outside of an

POOR COPY

BLEED THROUGH

incorporated town. The list for a given district or ward may be divided into as many sections as there are ballot boxes in said district or ward. Said list of registered voters shall be duly authenticated by the signatures of two of said county registrars.

Section 39. All persons whose names appear on the list of registered voters placed in the possession of the election managers, and no others, shall be allowed to deposit their ballots according to law, at the voting precinct of the militia district or city ward in which they are registered, but not elsewhere, except as hereinafter provided. If in any city ward or militia district a voting precinct is not established and opened, the registrars shall furnish to the election managers at the voting precinct at the courthouse, at the county seat, the lists of registered voters of such ward or militia district, and persons whose names appear on such lists shall be allowed to vote at the voting precinct at the courthouse, at the county seat, under the same rules that would have governed if a voting precinct had been established and opened in said ward or militia district.

Section 40. If any person shall offer to vote at the precinct at the courthouse, at the county seat, whose name does not appear on the lists for that ward or militia district, but does appear on the lists for one of the militia districts in which the voting precinct is situated outside of an incorporated town, such person shall be allowed to vote at the courthouse, at the county seat, upon taking the following oath: "I swear, or affirm, that I have not voted elsewhere in this election." The name of such voter shall be kept on a special list by the election managers and checked against the list of his precinct, militia district or ward, to ascertain whether or not he has voted in such election more than once.

Section 41. When any portion of a county is changed from one county or district to another, the persons who would have been qualified to vote in the county or district from which taken, at the time of any election, shall vote in the county or district to which they are removed, and if required to swear, the oath may be so qualified as to contain

COPY BOUND CLOSE IN CENTER

this fact. The name of such voter shall be kept and checked as herein provided in Section 40 of this Act.

Section 42. If any person shall change his residence from one militia district to another or from one county to another after qualifying to vote and shall desire to vote in any election in the district or county into which he removes at which he would be qualified to vote, he shall have the right, upon application to the registrars, and satisfactory proof before them that he will be qualified to vote at said election, to have his name placed upon the list of registered voters for the district or county into which he has removed, for said election, with the same rights as others registered for said election, provided necessary proof is in the hands of the registrars ten days before such election and the name of such person shall be stricken from the list on which it formerly appeared, prior to the date of such election.

Section 43. When any person desires to vote he may be challenged and required to take, in addition to the oath required to qualify an elector, the following oath in writing: "I do solemnly swear that I am (here insert the name, the same as on the registration list); that I am duly qualified as an elector, and at the time gave my address as (here give the address given on the registration card); that I have for the last six months resided at the following addresses (here give detailed addresses during the last six months with such particularity that the same can be readily verified or disproved); that I have resided at such place under the name of (here insert any name or alias used); and that my mother's maiden name is or was (here insert mother's maiden name)." Such written oath shall be filed with the manager of the election and preserved.

Section 44. The managers of the elections at the different precincts shall return the list of registered voters to the clerk of the superior court by which officer said lists shall be kept open for public inspection, and by said officer placed with the foreman of the next grand jury for such action as may be deemed proper by the grand jury. Said list is not to be placed with said clerk until after examination by the board of consolidation.

POOR COPY

BLEED THROUGH

Section 45. Said lists of qualified voters, lists of disqualified persons and registration cards, shall be at all times open to the reasonable inspection of any citizen of the county, but shall not be removed for such inspection from the custody of the official in charge. At the end of each year the registrars shall file, in the office of the ordinary, certified copies of the lists of registered voters prepared for each election.

Section 46. All the duties herein required of the registrars and all hearing of evidence upon the qualifications of voters shall be discharged and had in public. However, when several persons have been notified to appear before the registrars at the same time, the registrars, in their discretion, may examine each one of them separately and apart from the others.

47. For each application to register and qualify taken by the tax collector or tax commissioner, or his deputies acting in the capacity of deputy registrar and for each voter suspended by the same for failure to vote during the two preceding calendar years, said tax collector or tax commissioner shall receive the sum of five cents. For each name on the list of disqualified voters prepared in each year by the tax collector or tax commissioner, ordinary and clerk of the superior court, each of said officers shall receive the sum of one and one-half cents, but their compensation shall not be less than two dollars a day. The compensation of the registrars shall be fixed by the judge of the superior court. The compensation of said officials, the printing and supplying of registration cards, stationery and stamps, the hire of clerical help retained by the registrars and all other necessary expense in connection with the registration of voters shall be paid by the county commissioners, or that person, or those persons, exercising the functions of county commissioners, from the county treasurer. All payments hereunder shall be made in the usual manner county bills are paid.

Section 48. In any county in this State where the registration records have been destroyed by fire or otherwise, all

COPY BOUND CLOSE IN CENTER

voters shall register as herein provided, so that there may be a registration list.

Section 49. Any person who shall sign his name or his mark to the oath on the registration card as prescribed by law, and who is not in fact qualified as stated in the oath; or who shall sign his name or his mark to the oath on more than one registration card, unless required to register by the registrars; or who shall in a like manner sign any assumed or fictitious name; or who shall aid or abet any other person to sign his name or make his mark to the oath on more than one registration card unless such other person shall have been required to re-register; or who shall aid or abet any other person to sign an assumed or fictitious name to the oath on said registration card; or who shall deposit or aid or abet another to deposit a ballot at any election in any name other than his own, as appears on the list of registered voters as required by law; or who shall vote without having signed the oath on the registration card and otherwise qualifying to vote shall be guilty of a misdemeanor.

Section 50. Any registrar, or any deputy registrar who shall permit any person to sign the voter's oath on the registration card, unless such person shall have actually made the oath before him as provided by Section 15 of this Act shall be guilty of a misdemeanor.

Section 51. Any registrar, or any deputy registrar, or any other person who shall falsify the registration cards, or any lists taken or made up therefrom as hereinbefore provided shall be punished by confinement in the penitentiary for not less than one nor more than five years and shall be thereafter prohibited from voting or holding any office in this State.

Section 52. The registrars shall meet at the courthouse during voting hours of each election day for the purpose of considering the qualification of voters whose names may have been omitted by inadvertence or mistake from the qualified list of voters.

POOR COPY

BLEED THROUGH

Section 53. That whenever the authorities of a municipality located within a county who are charged with the responsibility of holding elections, or the authorities of a board of education who are charged with the responsibility of holding an election, shall request the registrars or board of registrars of the county or the authorities of the county charged with the responsibility for keeping and maintaining the list of qualified voters as defined in this Act, it shall then be the duty of the registrars or board of registrars, or authorities charged with the responsibility of maintaining the qualified voters' list, to furnish to said municipality or board of education a list of voters, duly certified, who are qualified to vote and who reside within the corporate limits of said municipality or within the limits of the board of education.

Section 54. The board of registrars, or the authorities charged with the responsibility of keeping and maintaining said voters' lists shall furnish said list to the municipality or board of education within said county at a price mutually agreed upon between said parties. If such parties are unable to agree upon said compensation the amount of same shall be submitted to arbitration pursuant to Chapter 7-2 of the Code of Georgia of 1933, and the award of said arbitrators shall be binding upon all parties, and the compensation provided by said arbitrators paid.

Section 55. The General Assembly declares that the intent and purpose of this Act is to provide for a new and exclusive method of qualifying voters, such revision being necessary in order to make the laws of this State conform to the requirements of the Constitution of Georgia adopted in the year 1945.

Section 56. That all Acts and parts of Acts in conflict herewith be, and the same are hereby repealed.

Approved February 25, 1949.

FILE COPY

Office - Supreme Court
FILED
MAR 17 1950
CHARLES ELMORE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1949

No. 687

DAVID FRANKLIN,

Appellant,

vs.

J. WALKER HARPER, C. NOLAN BOWDEN AND G. E. MURPHY,

Appellees

APPEAL FROM THE SUPREME COURT OF THE STATE OF GEORGIA

STATEMENT OPPOSING JURISDICTION AND MOTION TO DISMISS

---

† J. WALKER HARPER,
Pro Se.

POOR COPY

BLEED THROUGH

INDEX

Subject Index

	Page
Statement opposing jurisdiction	1
Jurisdictional statement	1
Argument and citation of authorities	3
The right to vote is a political right that is conferred by the law-making power of the State and is a question to be decided by the State Courts. No federal question is involved	3
Motion to dismiss	12

Table of Cases Cited

Abrams v. *Van Schaick*, 293 U. S. 188, 55 S. Ct. 135	15
Asbury Hospital v. *Cass County*, 326 U. S. 207, 66 S. Ct. 61	15
Breedlove v. *Suttles*, 183 Ga. 189, 203 U. S. 277, 82 L. ed. 252	9
Davis v. *Schnell*, 81 Fed. Supp. 872	7
Ellis v. *McMillan*, 186 Ga. 259	11
Honeyman v. *Hannan*, 300 U. S. 14, 57 S. Ct. 350	14
Jones v. *Darby*, 174 Ga. 71	10
McMahon v. *Mayor, etc.*, 66 Ga. 217	10
McPherson v. *Blacker*, 146 U. S. 1, 13 S. Ct. 3	11
Minor v. *Happersett*, 21 Wall. 162, 22 S. Ct. 627	5, 6
Pope v. *Williams*, 193 U. S. 621, 24 S. Ct. 573	6
Quinn v. *U. S.*, 238 U. S. 347, 35 S. Ct. 926	6
Raw v. *State of Texas*, 278 U. S. 191, 49 S. Ct. 160	15
Seaboard Air Line Ry. Co. v. *Watson*, 287 U. S. 86, 53 S. Ct. 32	14
Snypp v. *Ohio*, 70 F. (2d) 535	12
Stephens v. *Mayor and Council of Albany*, 84 Ga. 630	10
United States v. *Cruikshank*, 2 Otto 542, 23 L. ed. 588	11
United States v. *Reese*, 2 Otto 214, 23 L. ed. 563	11

Page

Waters-Pierce Oil Co. v. *State of Texas*, 212 U. S. 86, 29 S. Ct. 220 15

Wimberly v. *Georgia Southern and F. Railway Company*, 5 Ga. Appeals 263 12

STATUTES CITED

Constitution of Georgia of 1945 13

Constitution of the United States:

14th Amendment 13

15th Amendment 13

Corpus Juris, Volume 20, pp. 60, 61 and 64 9

Corpus Juris Secundum, Volume 29, p. 23 9

"Words and Phrases" Volume 12, p. 604 12

BLEED THROUGH POOR COPY

IN THE SUPREME COURT OF GEORGIA

Case No. 16758

DAVID FRANKLIN,

Appellant,

vs.

J. WALKER HARPER, C. NOLAN BOWDEN AND G. E. MURPHY,

Appellees

STATEMENT OPPOSING JURISDICTION AND MOTION TO DISMISS

Now come the appellees in the above stated matter and file this their statement as to the jurisdiction of the Supreme Court of the United States, their motion to dismiss, and their citation of authorities, within the time prescribed by Law with the Clerk of the Supreme Court of Georgia, and say:

Jurisdictional Statement

The facts of this case are these:

The act of the Legislature of the State of Georgia in question was approved February 25, 1949. Thereafter the procedure set up under said act for the appointment of registrars was complied with, and the appellees were appointed by the Judge of the Superior Court, sworn into office, and on April 1, 1949, began exercising the powers and

COPY BOUND CLOSE IN CENTER

duties required of them as the Board of Registrars. No persons attempted to qualify with the appellees during the month of April, but the organization of the machinery for registration was begun. On April 30, 1949, County warrants for the pay of such registrars were presented to the appellant for his signature, but he refused to authorize the payment. The vouchers for payment were presented to the appellant by virtue of his being the Chairman of the Board of Commissioners of Roads and Revenues of Richmond County, which Commissioners are in charge of the financial affairs of said County. On May 3, 1949, the Board of Commissioners of Roads and Revenues passed a resolution directing the appellant to sign said salary warrants, but thereafter the appellant still refused to sign them when they were presented to the appellant after the passage of this resolution. The appellees filed a petition for a writ of mandamus to require the appellant to sign said salary warrants alleging these facts and further alleging that the appellant was a qualified voter under the new act approved February 25, 1949. The appellant demurred upon several grounds, attacking the constitutionality of the act in question as being repugnant to the Constitution of the State of Georgia and as being repugnant to the Fourteenth and Fifteenth Amendments to the Constitution of the United States. One of the particular grounds of the attack made by the appellant was that once a citizen of the United States had registered as a voter in Georgia, such citizen acquired a vested right to continue to be a registered elector. The appellant avers that "after one becomes a duly qualified voter, he has a property right in that privilege".

The appellant further attacked the statute in question because "it was intended to discriminate against all persons, white and black".

POOR COPY

BLEED THROUGH

Argument and Citation of Authorities

THE RIGHT TO VOTE IS A POLITICAL RIGHT THAT IS CONFERRED BY THE LAW-MAKING POWER OF THE STATE AND IS A QUESTION TO BE DECIDED BY THE STATE COURTS. NO FEDERAL QUESTION IS INVOLVED.

"In this condition of the law in respect to suffrage in the several states, it cannot for a moment be doubted that if it had been intended to make all citizens of the United States voters, the framers of the Constitution would not have left it to implication. So important a change in the condition of citizenship as it actually existed, if intended, would have been expressly declared.

"But if further proof is necessary to show that no such change was intended, it can easily be found both in and out of the Constitution. By article 4, section 2, it is provided that 'The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several states.' If suffrage is necessarily a part of citizenship, then the citizens of each State must be entitled to vote in the several States precisely as their citizens are. This is more than asserting that they may change their residence and become citizens of the State and thus become voters. It goes to the extent of insisting that while retaining their original citizenship they may vote in any State. This, we think, has never been claimed. And again, by the very terms of the Amendment we have been considering (the fourteenth), 'Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of

such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in the rebellion, or other crimes, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.' Why this, if it was not in the power of the Legislature to deny the right of suffrage to some male inhabitants? And if suffrage was necessarily one of the absolute rights of citizenship, why confine the operation of the limitation to male inhabitants? Women and children are, as we have seen, 'persons.' They are counted in the enumeration upon which the appropriation is to be made, but if they were necessarily voters because of their citizenship unless clearly excluded, why inflict the penalty for the exclusion of males alone? Clearly, no such form of words would have been selected to express the idea here indicated, if suffrage was the absolute right of all citizens.

"As has been seen, all the citizens of the States were not invested with the right of suffrage. In all, save perhaps New Jersey, this right was only bestowed upon men and not upon all of them. Under these circumstances it is certainly now too late to contend that a government is not republican, within the meaning of this guaranty in the Constitution, because women are not made voters.

"Besides this, citizenship has not in all cases been made a condition precedent to the enjoyment of the right of suffrage. Thus, in Missouri, persons of foreign birth, who have declared their intention to become citizens of the United States, may under certain circumstances vote. The same provision is to be found in the Constitutions of Alabama, Arkansas, Florida, Georgia, Indiana, Kansas, Minnesota, and Texas.

"Certainly, if the courts can consider any question settled, this is one. For nearly ninety years the people have

POOR COPY

BLEED THROUGH

acted upon the idea that the Constitution, when it conferred citizenship, did not necessarily confer the right of suffrage. If uniform practice, long continued, can settle the construction of so important an instrument as the Constitution of the United States confessedly is, most certainly it has been done here. Our province is to decide what the law is, not to declare what it should be.

"We have given this case the careful consideration its importance demands. If the law is wrong, it ought to be changed; but the power for that is not with us. The arguments addressed to us bearing upon such a view of the subject, may, perhaps, be sufficient to induce those having the power to make the alteration, but they ought not to be permitted to influence our judgment in determining the present rights of the parties now litigating before us. No argument as to woman's need of suffrage can be considered. We can only act upon her rights as they exist. It is not for us to look at the hardship of withholding. Our duty is at an end if we can find it is within the power of a State to withhold.

"Being unanimously of the opinion that the Constitution of the United States does not confer the right of suffrage upon anyone, and that the Constitutions and laws of the several States which commit that important trust to men alone are not necessarily void, we affirm the judgment of the court below." *Virginia L. Minor and Francis Minor, Plffs. in Err.*, v. *Reese Happersett*, 22 S. Ct., Page 627; 21 Wall., 162-178.

"The privilege to vote in any state is not given by the Federal Constitution, or by any of its amendments. It is not a privilege springing from citizenship of the United States. Minor v. Happersett, 21 Wall. 162, 22 L. Ed. 627. It may not be refused on account of race, color, or previous condition of servitude, but it does not follow from mere citizenship of the United States. In other words, the privilege to vote in a state is within the jurisdiction of the state

itself, to be exercised as the state may direct, and upon such terms as to it may seem proper, provided, of course, no discrimination is made between individuals, in violation of the Federal Constitution. The state might provide that persons of foreign birth could vote without being naturalized, and, as stated by Mr. Chief Justice Waite in Minor v. Happersett, 21 Wall. 162, 22 L. ed. 627, such persons were allowed to vote in several of the states upon having declared their intentions to become citizens of the United States. Some states permit women to vote; others refuse them that privilege. A state, so far as the Federal Constitution is concerned, might provide by its own constitution and laws that none but native-born citizens should be permitted to vote, as the Federal Constitution does not confer the right of suffrage upon any one, and the conditions under which that right is to be exercised are matters for the states alone to prescribe, subject to the conditions of the Federal Constitution, already stated; although it may be observed that the right to vote for a member of Congress is not derived exclusively from the state law. See Fed. Const. art. 1, sec. 2; Wiley v. Sinkler, 179 U. S. 58, 45 L. ed. 84, 21 Sup. Ct. Rep. 17. But the elector must be one entitled to vote under the state statute. Id., Id. See also Swafford v. Templeton, 185 U. S. 487, 491, 46 L. ed. 1005, 1007, 22 Sup. Ct. Rep. 783. In this case no question arises as to the right to vote for electors of President and Vice-President, and no decision is made thereon. The question whether the conditions prescribed by the state might be regarded by others as reasonable or unreasonable is not a Federal one." *William H. Pope, Plff. in Err.*, v. *John M. C. Williams, et al.*, 24 S. Ct. Rep., Page 573; 193 U. S. 621.

In *Quinn* v. *United States*, 35 S. Ct. 926, 238 U. S. 347, on page 931, the Court said this:

"No time need be spent on the question of the validity of the literacy test, considered alone, since, as we have seen its

POOR COPY

establishment was but the exercise by the state of a lawful power vested in it, not subject to our supervision, and indeed its validity is admitted. Whether this test is so connected with the other one relating to the citation on January 1, 1866, that the invalidity of the latter requires the rejection of the former, is really a question of State law. . . ."

The right of the State to reasonably regulate the exercise of the elective franchise was recognized in the latest decision of this Court in *Davis* v. *Schnell,* reported in 81 Federal Supplement, 872, and affirmed by a memorandum decision of this Court on March 28, 1949.

We do not think but that the law is well established, that each sovereign state has the power to regulate its elective franchise; and the State of Georgia has passed on this question.

"The right to vote is a political right or privilege, to be given or withheld at the exercise of the law making power of the sovereignty. It is not a natural right of the citizen, but a franchise dependent upon law, by which it must be conferred to permit its exercise. It can emanate only from the people, either in their sovereign statement of the organic law or through legislative enactment which they have authorized. It is not included among the rights of property or of person. Neither is it an absolute unqualified right, but is altogether conventional. When once granted it may be taken away by the exercise of sovereign power, and if taken away no vested right is violated or bill of attainder passed. Decisions referring to the right of suffrage as a vested right are explainable on the ground that they use the word 'vested' in the sense that the right cannot be taken away except by the power which conferred it. Likewise decisions that the right to vote, where once conferred, is a property right of which the holder cannot be deprived

except by due process of law, refer to a deprivation other than by the power which conferred the right."

"Subject to the constitutional restrictions as to race, color, and previous condition of servitude, the states have supreme and exclusive power to regulate the right of suffrage and to determine the class of inhabitants who may vote. Each state may define the right in its own construction or empower its legislature to do so. So also the legislative assembly of a territory has authority to regulate the exercise of the right of suffrage in such territory subject to the restrictions and limitations imposed by the federal constitution and the acts of Congress. All statutes tending to limit the citizen in his exercise of the right of suffrage should be liberally constructed in his favor. The privilege of voting, when once conferred, is not to be taken away or restricted except by clear command of law."

"The legislature has the power to enact reasonable provisions for the purpose of requiring persons offering to vote to show that they have the necessary qualifications, as by requiring registration. In some states the constitution expressly requires or authorizes the legislature to provide for the registration of voters as a condition precedent to voting, or contains other provisions from which the power may be implied. Also the organic acts of some territories expressly refer to registration as a qualification. A registration law may properly require electors to register at the place in which they reside; prescribe what shall be presumptive evidence of the disqualification of one offering to register; require an affidavit or oath as to qualification as a condition precedent to the right to register; require persons coming into the state to reside to make a declaration of their intention of becoming citizens and residents of the state before they can claim the right to be registered as voters; and require the production of a certificate of registration, or in case of its loss, a duplicate certificate thereof. But to be

POOR COPY

BLEED THROUGH

valid, a registry law must be reasonable, not impairing the right of suffrage or depriving a person of it without fault or negligence on his part. The rule is sometimes stated to be that registration laws must be reasonable, uniform, and impartial, and calculated to facilitate and secure, rather than to subvert or impede, the exercise of the right to vote." 20 *Corpus Juris*, Pages 60, 61 and 64. See also 29 *Corpus Juris Secundum*, Page 23, etc.

The most detailed discussion of the elective franchise is contained in *Breedlove* v. *Suttles*, 183 Georgia, Page 189; 203 U. S., Page 277; 82 Law Edition, Page 252. Justice Beck in the opinion quotes with approval from Cooley on constitutional limitations, and says:

"We have said, that, though the sovereignty is in the people, as a practical fact it resides in those persons who by the constitution of the State are permitted to exercise the elective franchise. The whole subject of the regulation of elections, including the prescribing of qualifications for suffrage, is left by the national constitution to the several states, except as it is provided by that instrument that the electors for representatives in Congress shall have the qualifications requisite for electors of the most numerous branch of the State legislature, and as the fifteenth amendment, forbids denying to citizens the right to vote on account of race, color, or previous condition of servitude. Participation in the elective franchise is a privilege rather than a right, and it is granted or denied on grounds of general policy."

"The provision for a registry deprives no one of his right but is only a reasonable regulation under which the right may be exercised. Such regulations must always have been within the power of the legislature, unless forbidden. Many resting upon the same principle are always prescribed, and have never been supposed to be open to objection."

"The legislature has the right to authorize and to require the registration of voters in a town or city, but the regulations prescribed must be reasonable and impartial and calculated to facilitate and secure the constitutional right of suffrage, and not to subvert nor injuriously, unreasonably or unnecessarily restrain, impair or impede the right." *Stephens* v. *Mayor and Council of Albany*, 84 Georgia, page 630 (636).

"Registration adds no qualification to voters, but only serves to identify them as persons qualified to vote." 88 Georgia, page 699, Headnote 3.

"Our registration laws do not deal with the qualification of voters. They can add nothing to such qualifications. They can take nothing therefrom. Registration adds no new qualification. It serves only to identify the persons who are qualified to vote." *Jones* v. *Darby*, 174 Georgia, page 71 (76).

In the year 1880 the registration law applicable to the City of Savannah was attacked on the grounds that the registration law added qualification not provided for in the Constitution of our State, and that the registration law was therefore invalid. The case is reported as *McMahon* v. *Mayor, etc., of Savannah*, 66 Georgia, page 217. In an opinion written by Justice Speer, from which there were no dissents, the Court said:

"New requirements of registration has been held not to be the addition of a qualification to an elector. It is but a means of carrying out the registration law, and is strictly in unison with its purposes which are to provide for the proper designation and ascertainment of a voter in municipal elections. While it may not be, and is not in the province of the legislature to prescribe a new qualification for an elector, it certainly is within the scope of their authority to regulate the mode and manner of conducting elections

POOR COPY
BLEED THROUGH

for the purpose of securing a fair and legal result at the ballot-box."

The above case was cited with approval in *Ellis* v. *McMillan*, 186 Georgia, page 259.

In arguing the above proposition, we have not overlooked the restraint imposed upon the States by the Constitution of the United States, and in particularly the Fourteenth Amendment and Fifteenth Amendments, which amendments are the basis of the appeal by the appellant. We recognize that the United States prohibits discrimination of any State on account of race, color or previous condition of servitude, and that no State shall make any law which shall abridge the privileges or immunities of citizens of the United States. This has been well settled in *United States* v. *William J. Cruikshank*, 2 Otto, page 542, 23 Law Ed. 588, which passed upon the effect of the Fourteenth Amendment on the right of suffrage; and the case of *United States* v. *Hiram Reese*, 2 Otto, page 214, 23 Law. Ed., page 563.

"The right to vote in the States comes from the States, but the right of exemption from the prohibited discrimination comes from the United States. The first has not been granted or secured by the Constitution of the United States, but the last has been." *McPherson, et al.*, v. *Blacker*, 146 U. S. 1; 13 S. Ct., page 3.

The assignments of error in the case under consideration have much to be wished for when examined in the light of whether a federal question has been presented. It is our contention that the right to vote is a State question, and that the State of Georgia has established the law in reference thereto, and that no federal question is presented, even though an attempt has been made to do so. The demurrer of the appellant charges that the act in question "abridges the privileges and immunities of the citizens of the United States, and deprives persons of their liberty without due process of law, since the right to vote is the very foundation

of a democratic form of government, and to set up a Board which has power to discriminate and censor the right of citizens to vote, who are the creators of the government, and is therefore void." Nowhere in the assignments of error nor in the previous pleadings of this case has the appellant so much as alleged HOW the Board can discriminate and censor the right of citizens under the act.

The other ground of the appellant's demurrer charges that the act in question "abridges the right of the citizens to vote on account of race and color, and leaves to three men the unlimited and arbitrary power to declare them ineligible to vote." Neither in the assignments of error nor in the pleadings does the appellant allege WHO is discriminated against, the form of discrimination, or the class of persons who are discriminated against; but to the contrary the assignments of error allege that the act "was intended to discriminate against all persons, white and black", which is a physical impossibility.

"The word *discriminate* may be defined as treating one differently from another." *Wimberly* v. *Georgia Southern and F. Railway Company*, 5 Georgia Appeals, 263.

"Allegations that a person indicated in State Court was being deprived of equal civil rights because he could not obtain justice in any State Court because of prejudicial and local influence, would not constitute discrimination affecting civil rights so as to warrant removal." *Snypp* v. *State of Ohio*, 70 F. (2d) 535; 12 Words and Phrases, page 604.

MOTION

In view of the above propositions of law and undisputed facts, the appellees move the court to dismiss the writ of error and the appeal on the grounds that the Supreme Court of the United States does not have jurisdiction, for the following reasons:

POOR COPY

BLEED THROUGH

(1) That no Federal question is involved in determining whether once a citizen of the United States has qualified as a registered voter within the State of Georgia, the law making power of said State may not require a re-registration of such registered voter for the right to vote is not a property right, this being a State question and the State of Georgia having passed thereon.

(2) No substantial federal question is presented in determining whether the Fourteenth Amendment of the United States Constitution confers on a citizen of the United States the right to vote, for the law has been established that it does not.

(3) No substantial federal question is presented in determining whether the Fifteenth Amendment to the United States Constitution confers on a citizen of the United States the right to vote, for the law has been established that it does not.

(4) No federal question is involved because there is no assertion that the appellant or any one else, who is qualified under the Constitution of 1945 of Georgia to vote, has sought to register and been unlawfully denied the right to register; nor does the appellant point out how and in what manner the act empowers the Board of Registrars to discriminate against the appellant or against any other citizen in violation of the Fourteenth Amendment to the Federal Constitution.

(5) No federal question is involved because the appellant does not assert what class of citizens have been discriminated against on account of race, color, or previous condition of servitude for it is a physical and legal impossibility to discriminate "against all persons" contrary to the Fifteenth Amendment of the Federal Constitution.

The United States Supreme Court may not undertake to

review a decision of a State Court unless it appears affirmatively from the record not only that the federal question involved was presented to the highest state court having jurisdiction, but that its decision of the federal question was necessary to the determination of the cause. *Honeyman* v. *Hannan*, 300 U. S. 14; 57 S. Ct. Rep., page 350.

"It is essential to a proper presentation of points relied on for reversal that the statute and rules of Court requiring and governing the forms of assignments of errors be complied with. Every appeal must be accompanied with an assignment of errors which shall 'set out separately and particularly each error asserted.' R. S. section 997, 28 U. S. C. section 862 (28 U. S. C. A. section 862); Supreme Court Rule 9 (28 U. S. C. A. section 354). The purpose is to enable the court, as well as opposing counsel, readily to perceive what points are relied on. The substitution of vague and general statement for the prescribed particularity sets the rule at naught. Phillips, etc., Const. Co. v. Seymour, 91 U. S. 646, 648, 23 L. Ed. 341; Briscoe v. Dist. of Columbia, 221 U. S. 547, 549-550, 31 S. Ct. 679, 55 L. Ed. 848. And, as the rule makes for convenience and certainty in the consideration of cases, the court may, and generally it will, disregard a specification that is so uncertain or otherwise deficient as not substantially to comply with the rule, even if the opposing party raises no question and treats it as adequate." *Seaboard Air Line Ry. Co.* v. *Watson*, 287 U. S. 86; 53 S. Ct. Rep. 32.

"We are thus asked to pass on the constitutionality of a possible application of the state statute in advance of its application to appellant, and of its authoritative construction by the state courts. Lacking such construction, without which no constitutional question can arise, the issue is not an appropriate one for adjudication by the declaratory judgment procedure. This Court is without power to give

POOR COPY
BLEED THROUGH

advisory opinions. It will not decide constitutional issues which are hypothetical, or in advance of the necessity for deciding them, or without reference to the manner in which the statute, whose constitutional validity is drawn in question, is to be applied. Alabama State Federation of Labor vs. McAdory, 325 U. S. 450, 65 S. Ct. 1384, at pages 1389, 1390." *Asbury Hospital* v. *Cass County*, 326 U. S. 207, 66 S. Ct. 61.

See also *Abrams, et al.* v. *Van Schaick*, 293 U. S. 188, 55 S. Ct. 135.

"The jurisdiction of this Court to review the proceedings of the State Courts, as we have had frequent occasion to declare, is not that of a general review court in error, but is limited to the specific instances of denials of federal rights, whether those pending to the constitutionality of federal or state statutes or to certain rights, immunities and privileges of federal origin specially set up in the State court and denied by the rulings and judgment of that Court." *Waters-Pierce Oil Co.* v. *State of Texas*, 212 U. S. 86, 29 S. Ct. 220.

Frivolous appeals without substance may authorize the Court to dismiss the writ of error. *Raw* v. *State of Texas*, 278 U. S. 191, 49 S. Ct. 160.

Respectfully submitted,

J. Walker Harper,
Pro Se.

No. 687. FRANKLIN *v.* HARPER ET AL. Appeal from the Supreme Court of Georgia. *Per Curiam:* The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question. *Franklin H. Pierce* for appellant. Appellees *pro se*. Reported below: 205 Ga. 779, 55 S. E. 2d 221.

POOR COPY